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PUBLIC LAW 357--81st Congress

Chapter 691--1st Session

H. R. 3191

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FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1949. Amends the Federal Employees' Compensation Act as follows: Increases the maximum family benefit from $66\frac{2}{3}$ to 75 percent of apy in both disability and death cases. Under the Act a disabled person without dependents would receive the $66\frac{2}{3}$ percent rate and a person with one dependent (wife, child, or parent) would receive $8\frac{1}{3}$ percent more, but for periods of temporary total disability the augmentation for dependents would be based only on that part of the monthly pay not in excess of \$420. In no event may compensation based upon one person's misfortune exceed \$525 per month.

Increases the flat maximum benefit amount for any disability from \$116.66 to \$525 per month and increases from \$58.33 to \$112.50 the monthly minimum benefit for total disability and corresponding increase of the maximum monthly pay which can be considered in death cases, and increases from \$87.50 to \$150 the minimum monthly pay to be considered in such cases.

Increases the death benefits from 35 to 45 percent to a widow or dependent widower without child, and from 35 to 40 percent to a widow or widower where there is a child; where there is a widow or widower but there are one or more children, a further increase from 10 to 15 percent for each child, and, where there is no widow or widower, an increase from 25 to 35 percent for the first child and from 10 to 15 percent for each additional child. No increases for other dependent survivors are provided.

Includes a "schedule" for loss, or loss of use, of a member or function of the body, and for disfigurement. Those losses for which the act provides a scheduled disability and the compensible periods for such are identical with the provisions of the Longshoremen's Act as amended in 1948, and constitute a distinct liberalization in comparison with the one previously in use.

Increases the maximum allowance for an attendant for a helpless disabled employee, from \$50 to \$75 per month and discretionary provision for up to \$50 per month to an employee directed to undergo vocational rehabilitation, with payment of rehabilitation cost (with some exceptions) out of the compensation fund.

Increases from \$200 to \$400 the burial benefits where death results from the injury, and authorization to provide a casket and to transport the body should the injured employee die while away from home and undergoing treatment or examination.

Extends coverage so as to include, in addition to persons now covered, (a) civilian officers, as distinguished from employees, of the U. S. in all three branches of the Government, and (b) persons rendering personal services to the U. S. without compensation or for nominal compensation.

The wage base for certain beneficiaries already on the rolls which was used in computing their benefits, is increased to take account of the rise in wage rates.

The provisions for computation of pay on which to base compensation under the act are amended so as to exclude, in addition to overtime pay, certain extra allowances and so as to bring the computation in line with the Longshoremen's Act and other workmen's compensation laws. Special provisions in this respect

were included for persons serving without pay or for nominal compensation. Appropriate corresponding amendments are included for computation of wage-earning capacity for partial-disability cases.

The provisions for adjustment or recovery of overpayments are amended to make them less harsh.

The remedy under the Federal Employees' Compensation Act is made exclusive.

Payment for the 3-day waiting period is provided where the disability lasts beyond 21 days.

In addition, a provision eliminating the \$4,000 ceiling on aggregate compensation for emergency relief workers insofar as compensation for permanent total disability or death is concerned, and increasing prospectively from \$50 to \$100 the maximum monthly benefit amount and providing for a \$50 monthly minimum benefit for such workers, is included, and authority to continue on the benefit rolls remaining cases of injured or killed members of the former Women's Army Auxiliary Corps is clarified.

Provides for fixing fees of claimants' representatives.

Authorizes a safety council advisory board to the Federal Security Administrator and for the development and support of a safety program in the various Government agencies.

Provides for employing establishments to provide the initial furnishing of medical and other benefits under section 9(a), and for payment of such expense upon certification by the reporting officers of the establishment.

INDEX AND SUMMARY OF HISTORY ON H. R. 3191

January 3, 1949	H. R. 76 was introduced by Rep. Keating and was referred to the House Committee on Education and Labor. Print of the bill as introduced. (Similar bill).
January 6, 1949	S. 239 was introduced by Senator Murray and was referred to the Senate Committee on Labor and Public Welfare. Print of the bill as introduced. (Similar bill).
March 3, 1949	H. R. 3191 was introduced by Rep. Lesinski and was referred to the House Committee on Education and Labor. Print of the bill as introduced.
March 17, 1949	S. 1287 was introduced by Senator Thomas and was referred to the Senate Committee on Labor and Public Welfare. Print of the bill as introduced. (Similar bill).
April 11, 1949	Hearings: House, H. R. 3191.
June 6, 1949	House Committee reported H. R. 3191 with amendments. House Report 729. Print of the bill as reported.
June 24, 1949	House Rules reported H. Res. 265 for the consideration of H. R. 3191. House Report 901. Print of the resolution.
June 30, 1949	House debated and passed H. R. 3191 with amendments.
July 1, 1949	Print of H. R. 3191 as referred to the Senate Committee on Labor and Public Welfare.
August 4, 1949	Senate Committee reported H. R. 3191 with amendments. Senate Report 836. Print of the bill as reported.
August 9, 1949	H. R. 3191 was passed over in the Senate on objection.
August 25, 1949	Print of an amendment proposed by Senator Kilgore.
August 26, 1949	Print of an amendment proposed by Senator Morse.
September 30, 1949	Senate debated and passed H. R. 3191 with amendments. Senate conferees appointed.
October 6, 1949	House concurred in Senate amendments.
October 14, 1949	Approved. Public Law 357.

81ST CONGRESS
1ST SESSION

H. R. 76

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1949

Mr. KEATING introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend section 4 of the United States Employees' Compensation Act, approved September 7, 1916.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the first two sentences of section 6 entitled "An Act
4 to provide compensation for employees of the United States
5 suffering injuries while in the performance of their duties,
6 and for other purposes", approved September 7, 1916, as
7 amended, are amended to read as follows:

8 "That the monthly compensation for total disability shall
9 not be more than \$225, nor less than \$112.50, unless the
10 employee's monthly pay is less than \$112.50, in which case

1 his monthly compensation shall be the full amount of his
2 monthly pay. The monthly compensation for partial dis-
3 ability shall not be more than \$225.”

4 SEC. 2. Clause (K) of section 10 of such Act is
5 amended to read as follows:

6 “(K) In computing compensation under this section,
7 the monthly pay shall be considered not to be more than
8 \$300 nor less than \$200, but the total monthly compensa-
9 tion shall not exceed the monthly pay computed as provided
10 in section 12.”

11 SEC. 3. Section 11 of such Act is amended by striking
12 out “\$200” and inserting in lieu thereof “\$400”.

13 SEC. 4. Section 4 of such Act is amended by adding at
14 the end thereof a new paragraph as follows:

15 “That in case of disability partial in character but per-
16 manent in quality, which results in the loss or loss of use of
17 a member or function, or more than one thereof, specified in
18 the schedule in this paragraph, the compensation shall be
19 75 per centum of his monthly pay (subject to the maximum
20 limits in this Act), which shall be in addition to compensa-
21 tion for temporary total disability but in lieu of compensation
22 for permanent partial disability as otherwise determinable
23 under this section, and shall be paid to the employee as
24 follows:

1 “(1) Arm lost, three hundred and twelve weeks’ com-
2 pensation.

3 “(2) Leg lost, two hundred and eighty-eight weeks’
4 compensation.

5 “(3) Hand lost, two hundred and forty-four weeks’
6 compensation.

7 “(4) Foot lost, two hundred and five weeks’ compen-
8 sation.

9 “(5) Eye lost, one hundred and sixty weeks’ compen-
10 sation.

11 “(6) Thumb lost, seventy-five weeks’ compensation.

12 “(7) First finger lost, forty-six weeks’ compensation.

13 “(8) Great toe lost, thirty-eight weeks’ compensation.

14 “(9) Second finger lost, thirty weeks’ compensation.

15 “(10) Third finger lost, twenty-five weeks’ compensa-
16 tion.

17 “(11) Toe other than great toe lost, sixteen weeks’
18 compensation.

19 “(12) Fourth finger lost, fifteen weeks’ compensation.

20 “(13) Loss of hearing: Compensation for complete loss
21 of hearing of one ear, fifty-two weeks; for complete loss of
22 hearing of both ears, two hundred weeks.

23 “(14) Phalanges: Compensation for loss of more than
24 one phalanx of a digit shall be the same as for loss of the

1 entire digit. Compensation for loss of the first phalanx shall
2 be one-half of the compensation for loss of the entire digit.

3 “(15) Amputated arm or leg: Compensation for an
4 arm or a leg, if amputated above the wrist or ankle, shall
5 be for the proportional loss of the arm or leg.

6 “(16) Binocular vision or per centum of vision: Com-
7 pensation for loss of binocular vision or for 80 per centum
8 or more of the vision of an eye shall be the same as for the
9 loss of the eye.

10 “(17) Two or more digits: Compensation for loss or
11 loss of use, partial or otherwise, of two or more digits, or
12 one or more phalanges of two or more digits, of a hand or
13 foot may be proportional to the loss of use of the hand or foot
14 occasioned thereby, but shall not exceed the compensation
15 for the loss of a hand or foot.

16 “(18) Total loss of use: Compensation for permanent
17 total loss of use of a member shall be the same as for loss
18 of the member.

19 “(19) Partial loss or partial loss of use: Compensation
20 for permanent partial loss or loss of use of a member may
21 be for proportionate loss or loss of use of the member.

22 “(20) In any case in which there shall be a loss of,
23 or loss of use of, more than one member or parts of more
24 than one member as enumerated herein, not amounting to
25 permanent total disability, the award of compensation shall

1 be for the loss of, or loss of use of, each such member or
2 part thereof, which awards shall run consecutively, except
3 that where the injury affects only two, or more digits of the
4 same hand or foot, subparagraph (17) of this schedule shall
5 apply, and that where partial bilateral loss of hearing is
6 involved, compensation shall be computed upon the loss as
7 affecting both ears.

8 “(21) Loss of both hands, or both arms, both feet,
9 or both legs, or both eyes or the sight thereof, or any two
10 thereof shall, in the absence of conclusive proof to the
11 contrary, constitute permanent total disability, and compen-
12 sation shall be paid under section 3. In all other cases
13 permanent total disability shall be determined in accordance
14 with the facts.

15 “(22) Any compensation to which an employee, who
16 has filed a claim for compensation, would be entitled under
17 subparagraphs (1) to (20), inclusive, of this paragraph,
18 shall, notwithstanding death arising from causes other than
19 the injury, be payable to and for the benefit of the persons
20 following (as defined in section 10) :

21 “(a) The widow or wholly dependent widower, if there
22 is no child.

23 “(b) The widow or wholly dependent widower, one-
24 half, and child or children, one-half.

1 “(c) The child or children, the latter sharing alike, if
2 there is no widow or widower.

3 “(23) In any case in which compensation is awarded
4 for loss of, or loss of use of, an arm, hand, leg, foot, or eye
5 (including binocular vision), the injured employee may elect
6 to receive compensation on the basis of loss of wage-earning
7 capacity, under the first paragraph of this section in lieu of
8 compensation under the foregoing schedule: *Provided*, That
9 such election shall be made in writing and filed with the
10 Bureau not later than six months following a finding of
11 permanent partial disability in respect of such member; and
12 such election shall apply retroactively to the beginning of
13 permanent partial disability and compensation shall be
14 adjusted accordingly.”

15 SEC. 5. Section 3 of such Act is amended to read as
16 follows:

17 “SEC. 3. That if the disability is total the United States
18 shall pay to the disabled employee during such disability
19 compensation equal to 75 per centum of his monthly pay,
20 except as hereinafter provided.”

21 SEC. 6. Clause (A) of section 10 of such Act is
22 amended by striking out “thirty-five per centum” and insert-
23 ing in lieu thereof “50 per centum”.

1 SEC 7. Clause (D) of section 10 of such Act is
2 amended by striking out “twenty-five per centum” and in-
3 serting in lieu thereof “35 per centum”, and by striking out
4 “sixty-six and two-thirds per centum” and inserting in lieu
5 thereof “75 per centum”.

81ST CONGRESS
1ST Session

H. R. 76

A BILL

To amend section 4 of the United States Employees' Compensation Act, approved September 7, 1916.

By Mr. KEATING

JANUARY 3, 1949

Referred to the Committee on Education and Labor

81ST CONGRESS
1ST SESSION

S. 239

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1949

Mr. MURRAY introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend section 4 of the United States Employees' Compensation Act, approved September 7, 1916.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That the first two sentences of section 6 entitled "An Act
4 to provide compensation for employees of the United States
5 suffering injuries while in the performance of their duties,
6 and for other purposes", approved September 7, 1916, as
7 amended, are amended to read as follows:

8 "That the monthly compensation for total disability shall
9 not be more than \$225, nor less than \$112.50, unless the
10 employee's monthly pay is less than \$112.50, in which
11 case his monthly compensation shall be the full amount of

1 his monthly pay. The monthly compensation for partial
2 disability shall not be more than \$225.”

3 SEC. 2. Clause (K) of section 10 of such Act is amended
4 to read as follows:

5 “(K) In computing compensation under this section,
6 the monthly pay shall be considered not to be more than
7 \$300 nor less than \$200, but the total monthly compensa-
8 tion shall not exceed the monthly pay computed as provided
9 in section 12.”

10 SEC. 3. Section 11 of such Act is amended by striking
11 out “\$200” and inserting in lieu thereof “\$400”.

12 SEC. 4. Section 4 of such Act is amended by adding at
13 the end thereof a new paragraph as follows:

14 “That in case of disability partial in character but per-
15 manent in quality, which results in the loss or loss of use of
16 a member or function, or more than one thereof, specified in
17 the schedule in this paragraph, the compensation shall be
18 75 per centum of his monthly pay (subject to the maximum
19 limits in this Act), which shall be in addition to compensa-
20 tion for temporary total disability but in lieu of compensation
21 for permanent partial disability as otherwise determinable
22 under this section, and shall be paid to the employee as
23 follows:

24 “(1) Arm lost, three hundred and twelve weeks’ com-
25 pensation.

1 “(2) Leg lost, two hundred and eighty-eight weeks’
2 compensation.

3 “(3) Hand lost, two hundred and forty-four weeks’
4 compensation.

5 “(4) Foot lost, two hundred and five weeks’ compen-
6 sation.

7 “(5) Eye lost, one hundred and sixty weeks’ compen-
8 sation.

9 “(6) Thumb lost, seventy-five weeks’ compensation.

10 “(7) First finger lost, forty-six weeks’ compensation.

11 “(8) Great toe lost, thirty-eight weeks’ compensation.

12 “(9) Second finger lost, thirty weeks’ compensation.

13 “(10) Third finger lost, twenty-five weeks’ compensa-
14 tion.

15 “(11) Toe other than great toe lost, sixteen weeks’
16 compensation.

17 “(12) Fourth finger lost, fifteen weeks’ compensation.

18 “(13) Loss of hearing: Compensation for complete loss
19 of hearing of one ear, fifty-two weeks; for complete loss of
20 hearing of both ears, two hundred weeks.

21 “(14) Phalanges: Compensation for loss of more than
22 one phalanx of a digit shall be the same as for loss of the
23 entire digit. Compensation for loss of the first phalanx shall
24 be one-half of the compensation for loss of the entire digit.

25 “(15) Amputated arm or leg: Compensation for an

1 arm or a leg, if amputated above the wrist or ankle, shall
2 be for the proportional loss of the arm or leg.

3 “(16) Binocular vision or per centum of vision: Com-
4 pensation for loss of binocular vision or for 80 per centum
5 or more of the vision of an eye shall be the same as for the
6 loss of the eye.

7 “(17) Two or more digits: Compensation for loss or
8 loss of use, partial or otherwise, of two or more digits, or
9 one or more phalanges of two or more digits, of a hand or
10 foot may be proportioned to the loss of use of the hand or foot
11 occasioned thereby, but shall not exceed the compensation
12 for the loss of a hand or foot.

13 “(18) Total loss of use: Compensation for permanent
14 total loss of use of a member shall be the same as for loss
15 of the member.

16 “(19) Partial loss or partial loss of use: Compensation
17 for permanent partial loss or loss of use of a member may
18 be for proportionate loss or loss of use of the member.

19 “(20) In any case in which there shall be a loss of,
20 or loss of use of, more than one member or parts of more
21 than one member as enumerated herein, not amounting to
22 permanent total disability, the award of compensation shall
23 be for the loss of, or loss of use of, each such member or
24 part thereof, which awards shall run consecutively, except
25 that where the injury affects only two or more digits of the

1 same hand or foot, subparagraph (17) of this schedule shall
2 apply, and that where partial bilateral loss of hearing is
3 involved, compensation shall be computed upon the loss as
4 affecting both ears.

5 “(21) Loss of both hands, or both arms, both feet,
6 or both legs, or both eyes or the sight thereof, or any two
7 thereof shall, in the absence of conclusive proof to the
8 contrary, constitute permanent total disability, and compen-
9 sation shall be paid under section 3. In all other cases
10 permanent total disability shall be determined in accordance
11 with the facts.

12 “(22) Any compensation to which an employee, who
13 has filed a claim for compensation, would be entitled under
14 subparagraphs (1) to (20), inclusive, of this paragraph,
15 shall, notwithstanding death arising from causes other than
16 the injury, be payable to and for the benefit of the persons
17 following (as defined in section 10) :

18 “(a) The widow or wholly dependent widower, if there
19 is no child.

20 “(b) The widow or wholly dependent widower, one-
21 half, and child or children, one-half.

22 “(c) The child or children, the latter sharing alike, if
23 there is no widow or widower.

24 “(23) In any case in which compensation is awarded
25 for loss of, or loss of use of, an arm, hand, leg, foot, or eye

(including binocular vision), the injured employee may elect to receive compensation on the basis of loss of wage-earning capacity, under the first paragraph of this section in lieu of compensation under the foregoing schedule: *Provided*, That such election shall be made in writing and filed with the Bureau not later than six months following a finding of permanent partial disability in respect of such member; and such election shall apply retroactively to the beginning of permanent partial disability and compensation shall be adjusted accordingly.”

SEC. 5. Section 3 of such Act is amended to read as follows:

“SEC. 3. That if the disability is total the United States shall pay to the disabled employee during such disability compensation equal to 75 per centum of his monthly pay, except as hereinafter provided.”

SEC. 6. Clause (A) of section 10 of such Act is amended by striking out “thirty-five per centum” and inserting in lieu thereof “50 per centum”.

SEC. 7. Clause (D) of section 10 of such Act is amended by striking out “twenty-five per centum” and inserting in lieu thereof “35 per centum”, and by striking out “sixty-six and two-thirds per centum” and inserting in lieu thereof “75 per centum”.

A BILL

To amend section 4 of the United States Employees' Compensation Act, approved September 7, 1916.

By Mr. MURRAY

JANUARY 6, 1949

Read twice and referred to the Committee on Labor and Public Welfare

81ST CONGRESS
1ST SESSION

H. R. 3191

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1949

Mr. LESINSKI introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Employees' Com-
4 pensation Act Amendments of 1949".

5 TITLE I—SUBSTANTIVE AMENDMENTS

6 WAITING PERIOD MODIFIED

7 SEC. 101. (a) Section 2 of the Act approved September
8 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act

1 referred to as the "Federal Employees' Compensation Act"),
2 as amended (5 U. S. C., 1946 edition, sec. 752), is hereby
3 amended to read as follows:

4 "SEC. 2. That with respect to the first three days of
5 temporary disability the employee shall not be entitled to
6 compensation except as provided in section 9, unless such
7 disability exceeds twenty-one days in duration or is followed
8 by permanent disability."

9 (b) Section 8 of such Act (5 U. S. C., 1946 edition,
10 section 758), is amended to read as follows:

11 "SEC. 8. If at the time the disability begins the em-
12 ployee has annual or sick leave to his credit he may use
13 such leave until it is exhausted, in which case his compensa-
14 tion for disability shall not begin, and the time periods speci-
15 fied in section 2 shall not begin to run, until the annual or
16 sick leave has ceased."

17 BASIC BENEFIT FOR TOTAL DISABILITY

18 SEC. 102. Section 3 of the Federal Employees' Com-
19 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
20 753), is hereby amended to read as follows:

21 "SEC. 3. (a) Except as otherwise provided in this
22 Act, if the disability is total the United States shall pay to
23 the disabled employee during such disability a monthly
24 monetary compensation equal to $66\frac{2}{3}$ per centum of his

1 monthly pay, which shall be known as his basic compensation
2 for total disability.

3 “(b) Loss, or loss of use, of both hands, or both arms,
4 or both feet, or both legs, or both eyes or the sight thereof,
5 or of any two thereof shall, prima facie, constitute permanent
6 total disability.”

7 BASIC BENEFIT FOR PARTIAL DISABILITY

8 SEC. 103. (a) Section 4 of the Federal Employees’
9 Compensation Act, as amended (5 U. S. C., 1946 edition,
10 sec. 754), is further amended to read as follows:

11 “SEC. 4. (a) (1) Except as otherwise provided in
12 this Act, if the disability is partial the United States shall
13 pay to the disabled employee during such disability a
14 monthly monetary compensation equal to $66\frac{2}{3}$ per centum
15 of the difference between his monthly pay and his monthly
16 wage-earning capacity after the beginning of such partial
17 disability, which shall be known as his basic compensation
18 for partial disability.

19 “(2) The Administrator may require a partially dis-
20 abled employee to make an affidavit or other report, in such
21 manner and at such times as the Administrator may specify,
22 as to his earnings, whether from employment or self-employment. In such affidavit or other report the employee
23 shall include, when required, the value of housing, board,
24

1 lodging, and other advantages which are part of his re-
2 munerat[i]on for employment or are earnings in self-employ-
3 ment and which can be estimated in money. If such indi-
4 vidual, when required, fails to make such affidavit or other
5 report, or if in such affidavit or report the employee know-
6 ingly omits or understates any part of such earnings or
7 remunerat[i]on, he shall forfeit his right to compensation
8 with respect to any period for which such report was re-
9 quired to be made, and such compensation, if already paid,
10 shall be recovered by deducting the amount thereof from
11 the compensation payable to him or otherwise recovered in
12 accordance with section 38, unless such recovery is waived
13 pursuant to such section.

14 “(b) If a partially disabled employee refuses to seek
15 suitable work or refuses or neglects to work after suitable
16 work is offered to, procured by, or secured for him, he shall
17 not be entitled to any compensation.”

18 (b) Section 39 of such Act (5 U. S. C., 1946 edition,
19 sec. 789), is amended by inserting, after “affidavit” the
20 words “or report”.

21 SCHEDULED DISABILITIES

22 SEC. 104. Section 5 of the Federal Employees’ Com-
23 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
24 755), is amended to read as follows:

25 “SEC. 5. (a) In any case of permanent disability which

1 involves solely the loss, or loss of use, of a member or func-
2 tion of the body, or disfigurement, as provided in the follow-
3 ing schedule, basic compensation for such disability shall, in
4 addition to compensation for any temporary total or tem-
5 porary partial disability, be payable to the disabled em-
6 ployee for the period specified in such schedule at the rate
7 of $66\frac{2}{3}$ per centum of his monthly pay and shall, except as
8 otherwise provided in subsection (b), be in lieu of compen-
9 sation for such permanent disability under the preceding
10 sections of this Act:

11 “(1) Arm lost, three hundred and twelve weeks’
12 compensation.

13 “(2) Leg lost, two hundred and eighty-eight
14 weeks’ compensation.

15 “(3) Hand lost, two hundred and forty-four weeks’
16 compensation.

17 “(4) Foot lost, two hundred and five weeks’
18 compensation.

19 “(5) Eye lost, one hundred and sixty weeks’ com-
20 pensation.

21 “(6) Thumb lost, seventy-five weeks’ compensa-
22 tion.

23 “(7) First finger lost, forty-six weeks’ compen-
24 sation.

1 “(8) Great toe lost, thirty-eight weeks’ compen-
2 sation.

3 “(9) Second finger lost, thirty weeks’ compensa-
4 tion.

5 “(10) Third finger lost, twenty-five weeks’ com-
6 pensation.

7 “(11) Toe other than great toe lost, sixteen weeks’
8 compensation.

9 “(12) Fourth finger lost, fifteen weeks’ compen-
10 sation.

11 “(13) Loss of hearing: (A) Complete loss of
12 hearing of one ear, fifty-two weeks’ compensation; (B)
13 complete loss of hearing of both ears, two hundred
14 weeks’ compensation.

15 “(14) Binocular vision or percentage of vision:
16 Compensation for loss of binocular vision or for 80
17 per centum or more of the vision of an eye shall be the
18 same as for the loss of the eye.

19 “(15) Phalanges: Compensation for loss of more
20 than one phalanx of a digit shall be the same as for
21 loss of the entire digit. Compensation for loss of the
22 first phalanx shall be one-half of the compensation for
23 loss of the entire digit.

24 “(16) Amputated arm or leg: If, in the case of an
25 arm or a leg, the member is amputated above the wrist

or ankle, compensation shall be the same as for the loss of the arm or leg, respectively.

“(17) Two or more digits: Compensation for loss, or loss of use, of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, shall be proportioned to the loss of use of the hand or foot occasioned thereby.

“(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

“(19) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. The degree of loss of vision or hearing under this schedule shall be determined without regard to correction.

“(20) In any case in which there shall be a loss or loss of use, of more than one member or parts of more than one member as enumerated herein, the award of compensation shall be for the loss, or loss of use, of each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where

1 partial bilateral loss of hearing is involved, compensation
2 shall be computed upon the loss as affecting both ears.

3 “(21) Disfigurement: Proper and equitable com-
4 pensation not to exceed \$3,500 shall, in addition to
5 any other compensation payable under this schedule,
6 be awarded for serious disfigurement of the face, head,
7 or neck, if of a character likely to handicap a person
8 in securing or maintaining employment.

9 “(b) Notwithstanding the provisions of subsection (a)
10 of this section and the provisions of sections 3 and 4, if the
11 injury causes the total and permanent loss, or loss of use,
12 of an arm, hand, leg, foot, or eye (including loss of binocular
13 vision), or total and permanent loss of hearing of both
14 ears, whether or not the disability also involves other im-
15 pairments of the body, the individual's basic compensa-
16 tion for such disability, in addition to compensation for
17 periods of temporary total or temporary partial disability,
18 shall be $66\frac{2}{3}$ per centum of his monthly pay for the period
19 specified for such loss, or loss of use, in the schedule to
20 subsection (a) of this section (including paragraphs (16)
21 and (20) thereof), and with respect to any subsequent
22 period shall be as provided in section 3 if the disability is
23 total or as provided in subsection (a) of section 4 if the
24 disability is partial.

25 “(c) The period of compensation payable under the

1 schedule to subsection (a) of this section on account of any
2 injury shall be reduced by the period of compensation paid
3 or payable under such schedule on account of a prior injury
4 if compensation in both cases is for disability of the same
5 member or function, or different parts of the same member
6 or function, or for disfigurement, and the Administrator
7 finds that compensation payable on account of the subse-
8 quent disability in whole or in part would duplicate the
9 compensation payable on account of the preexisting dis-
10 ability. In such cases, for the purposes of disabilities speci-
11 fied in subsection (b), compensation for disability continuing
12 after the scheduled period shall commence upon expiration
13 of such period as reduced under this subsection.

14 “(d) (1) If an individual who has sustained disability
15 compensable under subsection (a) (including any disability
16 compensable under the schedule to subsection (a) by virtue
17 of subsection (b)), and who has filed a valid claim in his
18 lifetime, dies, from causes other than the injury, before the
19 expiration of the compensable period specified in such
20 schedule, the compensation specified in such schedule and
21 unpaid at the individual's death, whether or not accrued or
22 due at his death, shall be paid, under an award made before
23 or after such death, for the period specified in such schedule,
24 to and for the benefit of the persons then in being within

1 the classes and in the proportions and upon the conditions
2 specified in this subsection and in the order named:

3 “(A) to the widow (as defined in section 10 (H))
4 or wholly dependent widower (as specified in section
5 10 (B)), if there is no child (as so defined) under
6 the age of eighteen or incapable of self-support; or

7 “(B) if there are both such a widow or widower
8 and such a child or children, one-half to such widow or
9 widower and the other half to such child or children; or

10 “(C) if there is no such widow or widower but
11 such a child or children, then to such child or children;
12 or

13 “(D) if there is no survivor in the above classes,
14 then to the parent or parents wholly or partly dependent
15 for support upon the decedent, or to other wholly or
16 partly dependent relatives listed in section 10 (F) , or
17 to both, in such proportions as may be provided by
18 regulation; or

19 “(E) if there is no survivor in any of the above
20 classes, and no burial allowance is payable under section
21 11, then such amount, not exceeding the amount which
22 would be expendable under section 11 if such section
23 were applicable, shall be paid to reimburse any person
24 or persons, equitably entitled thereto, to the extent and
25 in the proportions that they shall have paid the ex-

penses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

“(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual’s death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent partial disability specified in subsection (b), even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

“(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

“(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would

1 have been payable to him had such entitlement continued
 2 shall be payable to the surviving beneficiary or beneficiaries,
 3 if any, within the same class or, if there are none, then to
 4 the beneficiary or beneficiaries next entitled to priority under
 5 such paragraph.”

6 ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM
 7 BENEFIT AMOUNT—DEPENDENTS’ BENEFITS, AND SO
 8 FORTH

9 SEC. 105. (a) Section 6 of the Federal Employees’
 10 Compensation Act, as amended (5 U. S. C., 1946 edition,
 11 sec. 756), is further amended to read as follows:

12 “SEC. 6. (a) (1) While the disabled employee has
 13 one or more dependents, his basic compensation for dis-
 14 ability payable under section 3 or section 5 (a) (including
 15 compensation payable under the schedule to section 5 (a).
 16 by virtue of section 5 (b)) shall be augmented at the rate
 17 of $8\frac{1}{3}$ per centum of his monthly pay, and his basic com-
 18 pensation for disability payable under section 4 (a) shall be
 19 augmented at the rate of $8\frac{1}{3}$ per centum of the difference
 20 between his monthly pay and his monthly wage-earning
 21 capacity.

22 “(2) As used in this subsection, the term ‘dependent’
 23 shall mean any of the following:

24 “(A) A wife, if (i) she is a member of the same

household as the employee or is receiving regular contributions from him toward her support, or (ii) he has been ordered by any court to contribute to her support.

“(B) A husband, if wholly dependent by reason of his own physical or mental disability upon the employee for support.

“(C) An unmarried child (as defined in section 10 (H)), while such child (i) is under eighteen years of age or, if over eighteen, is incapable of self-support by reason of mental or physical disability, and (ii) is living with the employee or receiving regular contributions toward his support from the employee.

“(D) A parent (as defined in section 10 (H)), while wholly dependent upon and supported by the employee.

“(b) (1) In addition to the monthly compensation otherwise specified in this Act, the Administrator may pay an injured employee, who has been awarded compensation for permanent total disability from injury, an additional sum of not more than \$75 a month, as the Administrator may deem necessary, when the Administrator shall find that the service of an attendant is necessary constantly to be used by reason of the employee's being total blind, or having lost both hands or both feet or the use thereof, or being paralyzed

1 and unable to walk, or by reason of other total disability
2 actually rendering him so helpless as to require constant
3 attendance.

4 “(2) The Administrator may pay to any disabled in-
5 dividual who is undergoing vocational rehabilitation pursuant
6 to the Administrator’s direction under section 9 (b) addi-
7 tional compensation necessary for his maintenance, but not
8 to exceed \$50 per month.

9 “(c) Except as otherwise authorized under section 42,
10 the monthly rate of compensation for total disability, includ-
11 ing any augmented compensation payable by reason of sub-
12 section (a) but not including any sum payable by reason
13 of subsection (b), shall not be less than \$112.50 per month,
14 unless the employee’s monthly pay is less in which case his
15 monthly rate of compensation shall be equal to his full
16 monthly pay.

17 “(d) (1) In the case of any person who at the time
18 of the injury was a minor or employed in a learner’s capacity
19 and who, prior to the injury, was not physically or mentally
20 handicapped, the Administrator shall, on any review under
21 section 37 after the time when the wage-earning capacity
22 of such person would probably, but for the injury, have in-
23 creased, prospectively recompute the monetary compensation
24 payable for disability on the basis of an assumed monthly
25 pay corresponding to such probable increased wage-earning

1 capacity. The Administrator may, on any review under
2 section 37 after a disabled employee has attained the age
3 of seventy years and the wage-earning capacity of the dis-
4 abled employee would probably, aside from and inde-
5 pendently of the effects of the injury, have decreased on
6 account of old age, prospectively recompute the monetary
7 compensation payable for disability on the basis of an as-
8 sumed monthly pay corresponding to such probable decreased
9 wage-earning capacity.

10 “(2) If a disabled individual, without good cause, fails
11 to apply for and undergo vocational rehabilitation when so
12 directed pursuant to section 9 (b), and the Administrator,
13 upon review under section 37, finds that in the absence of
14 such failure the individual's wage-earning capacity would
15 probably have substantially increased, the Administrator may
16 prospectively reduce the individual's monetary compensa-
17 tion in accordance with what would probably have been
18 his wage-earning capacity in the absence of such failure,
19 until the individual in good faith complies with the Admin-
20 istrator's direction.”

21 INCREASE IN DEATH BENEFITS, AND SO FORTH

22 SEC. 106. (a) Section 10 of the Federal Employees'
23 Compensation Act, as amended (5 U. S. C., 1946 edition,
24 sec. 760), is further amended by striking out “66 $\frac{2}{3}$ ” wher-
25 ever it occurs and inserting in lieu thereof “75”; by striking

1 out "35" in clauses (A) and (B) and inserting in lieu
2 thereof "45"; by striking out in clause (C) the words
3 "the compensation payable under clause (A) or clause
4 (B)" and inserting in lieu thereof "40 per centum"; by
5 striking out "10" in clauses (C) and (D) and inserting
6 in lieu thereof "15"; and by striking out "25" in clause
7 (D) and inserting in lieu thereof "35".

8 (b) Clause (K) of such section, as amended, is further
9 amended to read as follows:

10 " (K) In computing compensation under this sec-
11 tion the monthly pay shall be considered not to be less
12 than \$150, but the total monthly compensation shall
13 not exceed the monthly pay computed as provided in
14 section 12."

15 (c) Clause (B) of such section, as so amended, is
16 further amended to read as follows:

17 " (B) To the widower, if there is no child, 45
18 per centum if wholly dependent for support, by reason
19 of his physical or mental disability, upon the deceased
20 employee at the time of her death. This compensation
21 shall be paid until his death or marriage or until he
22 becomes capable of self-support."

23 (d) Such section, as so amended, is further amended
24 by striking out the second sentence of clause (C), the last
25 sentence of clause (D), and the last sentence of clause (G).

(c) Clause (L) of such section, as so amended, is amended to read as follows:

“(L) If any person entitled to compensation under this section or section 5 or 6, whose compensation by the terms of this or of such other section ceases or is to be reduced upon his marriage or upon the marriage of his dependent, accepts any payments or compensation after such marriage, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.”

LIBERALIZATION OF BURIAL PAYMENTS

SEC. 107. Section 11 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 761), is further amended to read as follows:

“SEC. 11. If death results from the injury the United States shall pay, to the personal representative of the deceased employee or otherwise, funeral and burial expenses not to exceed \$400, in the discretion of the Administrator. In the case of an employee whose home is within the United States, if his death results from the injury while he is away from his home or official station or is outside of the United States, or if his death results from other causes while he is away from his home or official station for the purpose of receiving medical or other services, appliances, or supplies

1 under section 9 or examination under section 21, and if so
2 desired by his relatives, the body shall, in the discretion of
3 the Administrator, be embalmed and transported in a
4 hermetically sealed casket to the home or last place of resi-
5 dence of the employee at the expense of the employees'
6 compensation fund. If, in such cases, request for return of
7 the body is not made by the decedent's relatives, the Admin-
8 istrator may provide for the disposition of the remains and
9 incur, and cause payment from the employees' compensation
10 fund of, such necessary transportation, funeral, and burial
11 expenses as under the circumstances shall be reasonable."

12 EXTENSION OF COVERAGE, AND SO FORTH

13 SEC. 108. (a) Section 40 of the Federal Employees'
14 Compensation Act, as amended (5 U. S. C., 1946 edition,
15 sec. 790), is further amended, by designating the para-
16 graphs thereof, following the introductory phrase, as para-
17 graphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)",
18 and "(h)", respectively.

19 (b) Paragraph (b) of such section, as so designated,
20 defining the term "employee", is further amended to read
21 as follows:

22 "(b) The term 'employee' includes (1) all civil offi-
23 cers and employees of all branches of the Government of
24 the United States (including Members of Congress and

1 officers and employees of instrumentalities of the United
2 States wholly owned by the United States) ; (2) commis-
3 sioned officers of the Regular Corps of the Public Health
4 Service; (3) officers in the Reserve of the Public Health
5 Service on active duty; (4) persons rendering personal
6 services of a kind similar to those of civilian officers or
7 employees of the United States or to any department, inde-
8 pendent establishment, or agency thereof (including instru-
9 mentalities of the United States wholly owned by it) , with-
10 out compensation or for nominal compensation, in any
11 case in which acceptance or use of such services is author-
12 ized by an Act of Congress or in which provision is made
13 by law for payment of the travel or other expenses of
14 such person; and (5) persons, other than independent con-
15 tractors and their employees, employed on the Menominee
16 Indian Reservation in the State of Wisconsin, subsequent
17 to September 7, 1916, in operations conducted pursuant
18 to the Act entitled 'An Act to authorize the cutting of
19 timber, the manufacture and sale of lumber, and the preser-
20 vation of the forests on the Menominee Indian Reservation
21 in the State of Wisconsin', approved March 28, 1908, as
22 amended, or any other Act relating to tribal timber and
23 logging operations on the Menominee Reservation."

24 (c) Paragraph (c) of such section, as so designated,

1 defining the term "commission", is further amended by
 2 inserting "former" after the words "to the" and by striking
 3 out the words "provided for in section 28".

4 (d) Paragraph (f) of such section, as so designated,
 5 defining the term "monthly pay", is further amended by
 6 inserting, immediately before the period, the following:
 7 "except when otherwise determined under section 6 (d)
 8 with respect to any period".

9 (e) Such section is further amended by adding thereto
 10 a new paragraph "(i)" reading as follows:

11 "(i) The term 'Administrator' means the Federal
 12 Security Administrator."

13 INCREASE OF COMPUTATION BASE WHERE INJURY

14 OCCURRED BEFORE JULY 1, 1946

15 SEC. 109. Notwithstanding any other provision of this
 16 Act or of the Federal Employees' Compensation Act, the
 17 monthly pay upon the basis of which compensation for dis-
 18 ability or death is computed under the Federal Employees'
 19 Compensation Act, is amended, shall, effective on the first
 20 day of the first calendar month following enactment of this
 21 Act, be increased by 40 per centum if the injury (or injury
 22 causing death) occurred before January 1, 1941, or by 10
 23 per centum if the injury (or injury causing death) occurred
 24 on or after such date but before July 1, 1946, except that

1 such increase shall in neither event exceed \$50. This sec-
2 tion shall apply to any case of death caused by such an
3 injury, regardless of whether such death occurs or occurred
4 before or after the enactment of this Act.

5 TITLE II—TECHNICAL AMENDMENTS

6 EXCLUSIVENESS OF REMEDY

7 SEC. 201. Section 7 of the Federal Employees' Com-
8 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
9 757), is further amended by inserting the designation "(a)"
10 immediately before the first sentence thereof and by adding
11 to such section a new subsection reading as follows:

12 "(b) The remedy afforded to any person under this Act
13 with respect to his own injury or the death of another indi-
14 vidual shall, unless otherwise specifically provided by law,
15 be the exclusive remedy against, and be in place of any other
16 legal liability of, the United States, or any of its instrumen-
17 talities wholly owned by it, on account of such injury or
18 death, where such liability is determinable by direct judicial
19 proceedings at law or in admiralty, or by proceedings under
20 any other workmen's compensation law or under any Federal
21 tort liability statute."

22 SEC. 202. Section 9 of the Federal Employees' Com-
23 pensation Act, as amended (5 U. S. C., 1946 edition, sec.

759), is amended by inserting before the first sentence thereof the designation “(a)” and by adding at the end of such section a new subsection reading as follows:

“(b) The Administrator may direct any permanently disabled individual whose disability is compensable under this Act to undergo vocational rehabilitation and shall make provision for furnishing vocational rehabilitation services in such cases. In providing for such services, the Administrator shall, insofar as practicable, utilize the services or facilities of State agencies (or corresponding agencies in Territories or possessions) cooperating with him in carrying out the purposes of the Vocational Rehabilitation Act, as amended, except to the extent that the Administrator provides for furnishing such services under subsection (a) of this section. The cost of providing such services to individuals undergoing vocational rehabilitation pursuant to such direction shall be paid from the employees’ compensation fund, except that in reimbursing any State agency (or corresponding agency of a Territory or possession) under any arrangement pursuant to this subsection there shall be excluded any cost to such agency reimbursable in full under section 3 (a) (4) of the Vocational Rehabilitation Act, as amended.”

COMPUTATION OF PAY

SEC. 203. Section 12 of the Federal Employees’ Com-

1 pensation Act (5 U. S. C., 1946 edition, sec. 762) is
2 amended to read as follows:

3 “SEC. 12. (a) In computing monetary compensation
4 for disability or death upon the basis of monthly pay, such
5 pay shall be determined in accordance with the provisions
6 of this section.

7 “(b) The value of subsistence and quarters, and of any
8 other form of remuneration in kind for services if its value can
9 be estimated in money, shall be included as part of the pay.
10 Overtime pay, or additional pay or allowance authorized
11 outside the United States because of differential in cost of
12 living or other special circumstance, or bonus or premium
13 pay for extraordinary service (including amounts paid as
14 bonus for particularly hazardous service in time of war)
15 shall not be taken into account. The term ‘overtime pay’,
16 as used in this subsection, means pay for hours of service in
17 excess of those of a statutory or other basic workweek, or
18 other basic unit of work time, as observed by the establish-
19 ment in which the employee is employed.

20 “(c) (1) The monthly pay at the time of injury shall
21 be deemed to be one-twelfth of the employee’s average an-
22 nual earnings at that time, except that when compensation
23 is paid upon a weekly basis, the weekly equivalent of such
24 monthly pay shall be deemed to be one-fifty-second of such

1 average annual earnings: *Provided*, That, for so much of the
2 period of total disability as does not exceed ninety calendar
3 days from the date of the beginning of compensable disability,
4 the compensation may, in the discretion of the Administrator,
5 be computed on the basis of the employee's actual daily wage
6 at the time of injury and in that event he may be paid com-
7 pensation for such days as he would have worked but for the
8 injury.

9 “(2) Average annual earnings shall be determined as
10 follows:

11 “(A) If the employee worked in the employment
12 in which he was working at the time of his injury
13 during substantially the whole of the year immediately
14 preceding such injury, his average annual earnings
15 shall consist of the product obtained by multiplying
16 his daily wage for the particular employment, or the
17 average thereof if the daily wage has fluctuated, by
18 three hundred if he was employed on the basis of a
19 six-day workweek, two hundred and eighty if employed
20 on the basis of a five-and-one-half-day week, and two
21 hundred and sixty if employed on the basis of a five-
22 day week, except that if the employment was in a
23 position for which an annual rate of compensation was
24 fixed, such average annual earnings shall consist of such
25 annual rate of compensation.

“(B) If the injured employee did not work in such employment during substantially the whole of such year, but the position was such as would have afforded employment for substantially a whole year, then the average annual earnings of such employee shall be equal to the average annual earnings of an employee of the same class working substantially the whole of such immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined in accordance with clause (A).

“(C) If either of the foregoing methods of determining the average annual earnings of an injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring locality, or to other previous employment of such employee, or to any other relevant factors, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury: *Provided*, That his average annual earnings shall consist of not less than

1 one hundred and fifty times the average daily wage
2 which he shall have earned in such employment during
3 the days when so employed within the period of one
4 year immediately preceding his injury.

5 “(D) Such rules shall, so far as practicable, be
6 also applied in the case of an employee serving without
7 pay or at nominal pay: *Provided*, That (i) the average
8 annual earnings shall in no event exceed the basic rate
9 of annual compensation specified under the Classification
10 Act of 1923, as amended, for positions in grade CAF-15
11 or P-8 at the bottom of such grade, and (ii) if his
12 average annual earnings cannot reasonably and fairly
13 be determined in the manner otherwise provided in this
14 section, such average annual earnings shall be determined
15 at the reasonable value of the service rendered but not
16 in excess of \$3,600 per annum.

17 “(d) As used in this section the term ‘year’ means a
18 period of twelve calendar months, or the equivalent thereof
19 as specified in regulations issued by the Administrator.”

20 COMPUTATION OF WAGE-EARNING CAPACITY

21 SEC. 204. Section 13 of the Federal Employees’ Com-
22 pensation Act (5 U. S. C., 1946 edition, sec. 763), is
23 amended to read as follows:

1 “SEC. 13. (a) In the determination of an employee’s
2 wage-earning capacity after the beginning of partial disa-
3 bility, the rules specified in section 12 (b) shall apply.

4 “(b) The wage-earning capacity of an injured em-
5 ployee, in determining compensation for partial disability
6 other than permanent partial disability compensable under
7 section 5 (a), shall be determined by his actual earnings
8 if such actual earnings fairly and reasonably represent his
9 wage-earning capacity: *Provided, however,* That if the
10 employee has no actual earnings, or his actual earnings do
11 not fairly and reasonably represent his wage-earning capac-
12 ity, such wage-earning capacity as shall appear reasonable
13 under the circumstances of the case shall be determined,
14 having due regard to the nature of his injury, the degree of
15 physical impairment, his usual employment, and any other
16 factors or circumstances in the case which may affect his
17 capacity to earn wages in his disabled condition.”

18 ADMINISTRATOR SUBSTITUTED FOR COMMISSION

19 SEC. 205. (a) Section 28 of the Federal Employees’
20 Compensation Act, as amended, is amended to read as
21 follows:

22 “SEC. 28. This Act shall be administered by the
23 Administrator.”

1 (b) Section 28a of such Act is repealed, but such
2 repeal shall not be construed to revive any independent
3 bureau or other agency abolished by such section.

4 (c) (1) The word "commission" (or other designation
5 of the commission), and the word "it" or "its" whenever
6 they refer to the commission, in any part of such Act, are
7 struck out wherever necessary in order to give effect to
8 subsection (a) of this section, and the words "Adminis-
9 trator" and "he" or "his", respectively, are inserted in lieu
10 thereof.

11 (2) In addition, the phrase " , or any commissioner by
12 authority of the commission," in section 29 of such Act is
13 struck out.

14 OVERPAYMENTS

15 SEC. 206. Section 38 of the Federal Employees' Com-
16 pensation Act (5 U. S. C., 1946 edition, sec. 788), is
17 amended to read as follows:

18 "SEC. 38. (a) Subject to the provisions of sections 36
19 and 37, whenever by reason of an error of fact or law an
20 overpayment has been made to an individual under this
21 Act, proper adjustments shall be made, under regulations
22 prescribed by the Administrator, by decreasing subsequent
23 payments to which such individual is entitled. If such
24 individual dies before such adjustment has been completed,
25 adjustment shall be made by decreasing subsequent benefits,

1 if any, payable under this Act with respect to such individ-
2 ual's death.

3 “(b) There shall be no adjustment or recovery by the
4 United States in any case where incorrect payment has been
5 made to an individual who is without fault and where ad-
6 justment or recovery would defeat the purpose of this Act
7 or would be against equity and good conscience.

8 “(c) No certifying or disbursing officer shall be held
9 liable for any amount certified or paid by him to any person
10 where the adjustment or recovery of such amount is waived
11 under subsection (b), or where adjustment under subsection
12 (a) is not completed prior to the death of all persons
13 against whose benefits deductions are authorized.”

14 SHORT TITLE

15 SEC. 207. The Federal Employees' Compensation Act,
16 as amended, is further amended by adding thereto at the
17 end thereof a new section as follows:

18 “SEC. 43. This Act may be cited as the ‘Federal Em-
19 ployees' Compensation Act’.”

20 TITLE III—TRANSITIONAL PROVISIONS AND

21 EFFECTIVE DATE

22 EXTENSION OF TIME LIMITATIONS

23 SEC. 301. (a) Where an individual with respect to
24 whose disability or death compensation is claimed under
25 the Federal Employees' Compensation Act, as amended,

1 was injured or died outside the United States on or after
2 December 7, 1941, and before August 11, 1946, the time
3 limitations of such Act with respect to the giving of notice
4 of injury and the filing of a claim for compensation shall
5 not begin to run until the date of enactment of this Act.

6 (b) As used in this subsection, the term "United
7 States" includes only the States, Alaska, Hawaii, Puerto
8 Rico, the Virgin Islands, and the Canal Zone.

9 COMPROMISE SETTLEMENTS—PRIVATE ACTS

10 SEC. 302. The provisions of this Act shall not be con-
11 strued to authorize the payment of any compensation under
12 the Federal Employees' Compensation Act in any case
13 where, pursuant to private relief legislation, a beneficiary
14 of such legislation has accepted payment of a grant in
15 satisfaction of the liability of the United States (or its cor-
16 poration, agency, or other instrumentality) in such case, or
17 where such liability has been compromised and settled, or
18 other satisfaction received, as the result of any action sound-
19 ing in tort or under maritime law, or where a lump sum
20 has been received under section 14 of the Federal Employ-
21 ees' Compensation Act and the lump-sum award is not
22 modified or set aside for other reasons.

23 EFFECTIVE OPERATION

24 SEC. 303. (a) Except as otherwise provided by this
25 section or in this Act, titles I and II of this Act shall take

1 effect on the date of enactment of this Act and be applicable
2 to any injury or death occurring before or after such date.

3 (b) The amendments made by section 101 of this Act
4 to sections 2 and 8 of the Federal Employees' Compensation
5 Act shall not apply to any period of disability commencing
6 before the enactment of this Act.

7 (c) The amendments made by sections 102, 103, 105,
8 and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of
9 the Federal Employees' Compensation Act shall be applicable
10 to cases of injury or death occurring before enactment of
11 this Act only with respect to any period beginning on or
12 after the first day of the first calendar month following the
13 enactment of this Act.

14 (d) (1) The amendments made by section 104 of this
15 Act to section 5 of the Federal Employees' Compensation
16 Act, establishing special provisions for permanent disability
17 involving the loss, or loss of use, of a member or function
18 of the body, or disfigurement, shall apply retroactively to any
19 case in which the injury occurred within one year prior to
20 the enactment of this Act: *Provided*, That where the injury
21 occurred before such enactment, except in cases specified in
22 subsection (b) of section 5 of such Act, as so amended,
23 the injured employee shall not be entitled to compensation
24 under the schedule unless within one year after such date of
25 enactment he elects to receive compensation under the

1 schedule if so entitled: *And provided further*, That in the
2 event of such election, all amounts theretofore paid on the
3 basis of loss of wage-earning capacity as compensation for
4 permanent partial disability involving a loss, or loss of use,
5 of a member or function, or disfigurement, as specified in
6 the schedule shall be credited against any compensation
7 awarded by reason of such amendment.

8 (2) No payment upon death pursuant to section 5 (d)
9 of the Federal Employees' Compensation Act, as amended
10 by this Act, shall be made unless death occurs after such
11 enactment. In the event of such death, the election required
12 by paragraph (1) of this subsection shall be deemed to have
13 been made.

14 (e) Section 107 of this Act, amending section 11 of the
15 Federal Employees' Compensation Act, shall apply only to
16 deaths occurring after the enactment of this Act.

17 (f) (1) The amendments made by section 108 of this
18 Act to the definition of the term "employee" contained in
19 section 40 of the Federal Employees' Compensation Act
20 shall, as to any case of injury or death occurring before the
21 date of enactment of this Act, apply only to injuries or deaths
22 occurring on or after December 7, 1941, and compensation
23 (including medical or other benefits) in any such case shall
24 not be paid for any period earlier than the first day of the

1 first month following enactment of this Act and, in cases of
2 disability caused by such an injury, shall be limited to com-
3 pensation for permanent partial or permanent total dis-
4 ability.

5 (2) The time limitations of the Federal Employees'
6 Compensation Act with respect to the giving of notice of in-
7 jury and the filing of a claim for compensation, in any case
8 brought within the purview of section 40 of such Act by this
9 Act, shall not begin to run until the date of enactment of
10 this Act.

11 (g) The amendment made by section 201 of this Act to
12 section 7 of the Federal Employees' Compensation Act,
13 making the remedy and liability under such Act exclusive,
14 shall not apply to any case of injury or death occurring prior
15 to the enactment of this Act in which liability other than
16 that arising under such Act, or any extension thereof, was
17 finally determined prior to the enactment of this Act.

18 (h) The amendments made by sections 203 and 204
19 of this Act to sections 12 and 13 of the Federal Employees'
20 Compensation Act, pertaining to the determination of the
21 employee's pay or his wage-earning capacity, may, in the
22 interest of justice and in the discretion of the Administrator,
23 be applied in any case, irrespective of the date of injury
24 or death, so as to cause payments of compensation, with

1 respect to any period not earlier than the first day of the
2 first month after enactment of this Act, to be consistent with
3 such amendments.

4 TIME LIMITATIONS NOT EXTENDED

5 SEC. 304. Except as otherwise expressly provided, the
6 enactment of this Act shall not suspend or defer the running
7 of the time limitations of the Federal Employees' Compensa-
8 tion Act with respect to the giving of notice of injury and
9 filing of a claim for compensation.

10 TITLE IV

11 LIBERALIZATION OF MAXIMUM COMPENSATION FOR
12 EMERGENCY RELIEF WORKERS

13 SEC. 401. (a) Clauses (a), (b), and (c) of the
14 second proviso to section 1 of the Act approved February
15 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended
16 to read as follows:

17 “(a) that the aggregate monetary compensation
18 in any individual case, except compensation for death
19 or for permanent total disability, shall not exceed the
20 sum of \$4,000 and that the monthly monetary com-
21 pensation shall not in any event exceed \$100, both
22 exclusive of medical costs;

23 “(b) that, in lieu of the minimum limit on monthly
24 compensation for disability established by section 6 and
25 the minimum limit on the monthly pay on which death

1 compensation is to be computed as provided by section
2 10 (K) of such Act, the monthly pay on the basis of
3 which compensation for disability or death is computed
4 shall be deemed to be not less than \$75 and compensa-
5 tion shall be payable on the basis of such pay regardless
6 of the actual pay at the time of injury or death, except
7 that the Federal Security Administrator may from time
8 to time, by regulation, fix a lower minimum monthly pay
9 as a basis for computing such compensation as to any
10 class of individuals, specified in the fourth paragraph of
11 section 42 of such Act, as amended, who sustained injury
12 or were killed outside the continental United States;

13 “(c) that the Federal Security Administrator may
14 from time to time, subject to the above limitations, estab-
15 lish a special schedule of compensation for disability
16 and for death (including a special schedule of compensa-
17 tion for the loss, or loss of use, of members or functions
18 of the body), and compensation under such schedule
19 shall be in lieu of all other compensation in such cases;”.

20 (b) The first proviso to section 8 of the Emergency
21 Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352,
22 356), and the first proviso to section 16 of the Emergency
23 Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809,
24 814), are repealed.

25 (c) This section shall apply to any case heretofore or

1 hereafter coming within the purview of such Act of Feb-
2 ruary 15, 1934, but no compensation shall, with respect
3 to any case of injury or death occurring before the date
4 of enactment of this Act, accrue or be increased by reason
5 of the enactment of this section for any period prior to
6 the first day of the first month following the date of enact-
7 ment of this Act.

8 (d) The special schedule of compensation heretofore
9 established pursuant to clause (a) of the second proviso
10 to section 1 of such Act of February 15, 1934, shall remain
11 in effect until superseded by a new schedule established
12 pursuant to the amendments made by this section.

13 MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

14 SEC. 402. Effective as of July 25, 1947, paragraph a
15 of section 2 of the Act approved July 25, 1947 (ch. 327,
16 61 Stat. 449, 451), is amended by striking out the semi-
17 colon at the end of the provision repealing the Act of July
18 1, 1943 (57 Stat. 371), and the Act of May 14, 1942
19 (56 Stat. 278), as amended, and inserting in lieu thereof
20 a colon and the following proviso: "*Provided*, That section
21 11 of such Act of May 14, 1942, shall remain in effect
22 to the extent specified in section 5 of such Act of July 1,
23 1943;".

A BILL

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

By Mr. LESINSKI

MARCH 3, 1949

Referred to the Committee on Education and Labor

81ST CONGRESS
1ST SESSION

S. 1287

IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, FEBRUARY 21), 1949

Mr. THOMAS of Utah introduced the following bill; which was read twice and referred to the Committee on Labor and Public Welfare

A BILL

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Employees'
4 Compensation Act Amendments of 1949".

5 TITLE I—SUBSTANTIVE AMENDMENTS

6 WAITING PERIOD MODIFIED

7 SEC. 101. (a) Section 2 of the Act approved September
8 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act

1 referred to as the "Federal Employees' Compensation Act"),
2 as amended (5 U. S. C., 1946 edition, section 752), is
3 hereby amended to read as follows:

4 "SEC. 2. That with respect to the first three days of
5 temporary disability the employee shall not be entitled to
6 compensation except as provided in section 9, unless such
7 disability exceeds twenty-one days in duration or is followed
8 by permanent disability."

9 (b) Section 8 of such Act (5 U. S. C., 1946 edition,
10 section 758), is amended to read as follows:

11 "SEC. 8. If at the time the disability begins the employee
12 has annual or sick leave to his credit he may use such leave
13 until it is exhausted, in which case his compensation for
14 disability shall not begin, and the time periods specified
15 in section 2 shall not begin to run, until the annual or sick
16 leave has ceased."

17 BASIC BENEFIT FOR TOTAL DISABILITY

18 SEC. 102. Section 3 of the Federal Employees' Com-
19 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
20 753), is hereby amended to read as follows:

21 "SEC. 3. (a) Except as otherwise provided in this Act,
22 if the disability is total the United States shall pay to the
23 disabled employee during such disability a monthly monetary
24 compensation equal to $66\frac{2}{3}$ per centum of his monthly pay,

1 which shall be known as his basic compensation for total
2 disability.

3 “(b) Loss, or loss of use, of both hands, or both arms,
4 or both feet, or both legs, or both eyes or the sight thereof,
5 or of any two thereof shall, prima facie, constitute permanent
6 total disability.”

7 BASIC BENEFIT FOR PARTIAL DISABILITY

8 SEC. 103. (a) Section 4 of the Federal Employees’
9 Compensation Act, as amended (5 U. S. C., 1946 edition,
10 sec. 754), is further amended to read as follows:

11 “SEC. 4. (a) (1) Except as otherwise provided in this
12 Act, if the disability is partial the United States shall pay
13 to the disabled employee during such disability a monthly
14 monetary compensation equal to $66\frac{2}{3}$ per centum of the dif-
15 ference between his monthly pay and his monthly wage-
16 earning capacity after the beginning of such partial dis-
17 ability, which shall be known as his basic compensation for
18 partial disability.

19 “(2) The Administrator may require a partially dis-
20 abled employee to make an affidavit or other report, in such
21 manner and at such times as the Administrator may specify,
22 as to his earnings, whether from employment or self-employ-
23 ment. In such affidavit or other report the employee shall
24 include, when required, the value of housing, board, lodging,

1 and other advantages which are part of his remuneration
2 for employment or are earnings in self-employment and
3 which can be estimated in money. If such individual, when
4 required, fails to make such affidavit or other report, or if
5 in such affidavit or report the employee knowingly omits
6 or understates any part of such earnings or remuneration,
7 he shall forfeit his right to compensation with respect to
8 any period for which such report was required to be made,
9 and such compensation, if already paid, shall be recovered
10 by deducting the amount thereof from the compensation
11 payable to him or otherwise recovered in accordance with
12 section 38, unless such recovery is waived pursuant to such
13 section.

14 “(b) If a partially disabled employee refuses to seek
15 suitable work or refuses or neglects to work after suitable
16 work is offered to, procured by, or secured for him, he shall
17 not be entitled to any compensation.”

18 (b) Section 39 of such Act (5 U. S. C., 1946 edition,
19 sec. 789) is amended by inserting, after “affidavit”, the
20 words “or report”.

21 SCHEDULED DISABILITIES

22 SEC. 104. Section 5 of the Federal Employees’ Com-
23 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
24 755), is amended to read as follows:

1 “SEC. 5. (a) In any case of permanent disability which
2 involves solely the loss, or loss of use, of a member or func-
3 tion of the body, or disfigurement, as provided in the follow-
4 ing schedule, basic compensation for such disability shall, in
5 addition to compensation for any temporary total or tem-
6 porary partial disability, be payable to the disabled employee
7 for the period specified in such schedule at the rate of $66\frac{2}{3}$
8 per centum of his monthly pay and shall, except as other-
9 wise provided in subsection (b), be in lieu of compensation
10 for such permanent disability under the preceding sections
11 of this Act:

12 “(1) Arm lost, three hundred and twelve weeks’ com-
13 pensation.

14 “(2) Leg lost, two hundred and eighty-eight weeks’
15 compensation.

16 “(3) Hand lost, two hundred and forty-four weeks’
17 compensation.

18 “(4) Foot lost, two hundred and five weeks’ compensa-
19 tion.

20 “(5) Eye lost, one hundred and sixty weeks’ compensa-
21 tion.

22 “(6) Thumb lost, seventy-five weeks’ compensation.

23 “(7) First finger lost, forty-six weeks’ compensation.

24 “(8) Great toe lost, thirty-eight weeks’ compensation,

1 “(9) Second finger lost, thirty weeks’ compensation.

2 “(10) Third finger lost, twenty-five weeks’ compensa-
3 tion.

4 “(11) Toe other than great toe lost, sixteen weeks’
5 compensation.

6 “(12) Fourth finger lost, fifteen weeks’ compensation.

7 “(13) Loss of hearing: (A) Complete loss of hearing
8 of one ear, fifty-two weeks’ compensation; (B) complete
9 loss of hearing of both ears, two hundred weeks’ compensa-
10 tion.

11 “(14) Binocular vision or per centum of vision: Com-
12 pensation for loss of binocular vision or for 80 per centum or
13 more of the vision of an eye shall be the same as for the loss
14 of the eye.

15 “(15) Phalanges: Compensation for loss of more than
16 one phalanx of a digit shall be the same as for loss of the
17 entire digit. Compensation for loss of the first phalanx shall
18 be one-half of the compensation for loss of the entire digit.

19 “(16) Amputated arm or leg: If, in the case of an
20 arm or a leg, the member is amputated above the wrist or
21 ankle, compensation shall be the same as for the loss of
22 the arm or leg, respectively.

23 “(17) Two or more digits: Compensation for loss, or
24 loss of use, of two or more digits, or one or more phalanges

1 of each of two or more digits, of a hand or foot, shall be
2 proportioned to the loss of use of the hand or foot occasioned
3 thereby.

4 “(18) Total loss of use: Compensation for permanent
5 total loss of use of a member shall be the same as for loss
6 of the member.

7 “(19) Partial loss or partial loss of use: Compensation
8 for permanent partial loss or loss of use of a member may
9 be for proportionate loss or loss of use of the member. The
10 degree of loss of vision or hearing under this schedule shall
11 be determined without regard to correction.

12 “(20) In any case in which there shall be a loss, or
13 loss of use, of more than one member or parts of more than
14 one member as enumerated herein, the award of compensa-
15 tion shall be for the loss, or loss of use, of each such member
16 or part thereof, which awards shall run consecutively, except
17 that where the injury affects only two or more digits of the
18 same hand or foot, subparagraph (17) of this schedule shall
19 apply, and that where partial bilateral loss of hearing is
20 involved, compensation shall be computed upon the loss as
21 affecting both ears.

22 “(21) Disfigurement: Proper and equitable compen-
23 sation not to exceed \$3,500 shall, in addition to any other
24 compensation payable under this schedule, be awarded for

1 serious disfigurement of the face, head, or neck, if of a
2 character likely to handicap a person in securing or main-
3 taining employment.

4 “(b) Notwithstanding the provisions of subsection (a)
5 of this section and the provisions of sections 3 and 4, if
6 the injury causes the total and permanent loss, or loss of
7 use, of an arm, hand, leg, foot, or eye (including loss of
8 binocular vision), or total and permanent loss of hearing
9 of both ears, whether or not the disability also involves other
10 impairments of the body, the individual’s basic compensa-
11 tion for such disability, in addition to compensation for
12 periods of temporary total or temporary partial disability,
13 shall be $66\frac{2}{3}$ per centum of his monthly pay for the period
14 specified for such loss, or loss of use, in the schedule to sub-
15 section (a) of this section (including paragraphs (16)
16 and (20) thereof), and with respect to any subsequent
17 period shall be as provided in section 3 if the disability is
18 total or as provided in subsection (a) of section 4 if the
19 disability is partial.

20 “(c) The period of compensation payable under the
21 schedule to subsection (a) of this section on account of any
22 injury shall be reduced by the period of compensation paid
23 or payable under such schedule on account of a prior injury
24 if compensation in both cases is for disability of the same
25 member or function, or different parts of the same member

1 or function, or for disfigurement, and the Administrator finds
 2 that compensation payable on account of the subsequent
 3 disability in whole or in part would duplicate the compensa-
 4 tion payable on account of the preexisting disability. In
 5 such cases, for the purposes of disabilities specified in sub-
 6 section (b), compensation for disability continuing after
 7 the scheduled period shall commence upon expiration of
 8 such period as reduced under this subsection.

9 “(d) (1) If an individual who has sustained dis-
 10 ability compensable under subsection (a) (including any
 11 disability compensable under the schedule to subsection (a)
 12 by virtue of subsection (b)), and who has filed a valid
 13 claim in his lifetime, dies, from causes other than the injury,
 14 before the expiration of the compensable period specified
 15 in such schedule, the compensation specified in such schedule
 16 and unpaid at the individual's death, whether or not accrued
 17 or due at his death, shall be paid, under an award made
 18 before or after such death, for the period specified in such
 19 schedule, to and for the benefit of the persons then in being
 20 within the classes and in the proportions and upon the con-
 21 ditions specified in this subsection and in the order named:

22 “(A) to the widow (as defined in section 10 (H))
 23 or wholly dependent widower (as specified in section

10 (B)), if there is no child (as so defined) under the age of eighteen or incapable of self-support; or

“(B) if there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

“(C) if there is no such widow or widower but such a child or children, then to such child or children; or

“(D) if there is no survivor in the above classes, then to the parent or parents wholly or partly dependent for support upon the decedent, or to other wholly or partly dependent relatives listed in section 10 (F), or to both, in such proportions as may be provided by regulation; or

“(E) if there is no survivor in any of the above classes, and no burial allowance is payable under section 11, then such amount, not exceeding the amount which would be expendable under section 11 if such section were applicable, shall be paid to reimburse any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or po-

1 litical subdivision or entity, shall be deemed so equitably
2 entitled.

3 “(2) Except for the amount of such compensation pay-
4 able with respect to any period preceding the disabled indi-
5 vidual’s death, the payments to be made under paragraph
6 (1) shall be at the basic rate of compensation for permanent
7 partial disability specified in subsection (b), even if at the
8 time of such death the decedent was entitled to the aug-
9 mented rate specified in section 6 (a).

10 “(3) (A) The right of any surviving beneficiary listed
11 in paragraph (1) to any payment pursuant to this subsec-
12 tion, except a beneficiary under clause (E) thereof, shall
13 be conditioned upon his being alive to receive such payment
14 and no such beneficiary shall have a vested right to any such
15 payment.

16 “(B) The entitlement of any beneficiary to payments
17 under clauses (A) to (D) of paragraph (1) shall cease
18 upon the happening of any event which would terminate
19 the right of such beneficiary to compensation for death
20 under section 10. Upon the cessation of the entitlement
21 of any beneficiary under such clauses (A) to (D), the
22 compensation remaining unpaid under paragraph (1)
23 which would have been payable to him had such entitle-
24 ment continued shall be payable to the surviving beneficiary

1 or beneficiaries, if any, within the same class or, if there
 2 are none, then to the beneficiary or beneficiaries next entitled
 3 to priority under such paragraph.”

4 ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM
 5 BENEFIT AMOUNT—DEPENDENTS’ BENEFITS, AND SO
 6 FORTH

7 SEC. 105. (a) Section 6 of the Federal Employees’
 8 Compensation Act, as amended (5 U. S. C., 1946 edition,
 9 sec. 756), is further amended to read as follows:

10 “SEC. 6. (a) (1) While the disabled employee has
 11 one or more dependents, his basic compensation for disability
 12 payable under section 3 or section 5 (a) (including compen-
 13 sation payable under the schedule to section 5 (a) by virtue
 14 of section 5 (b)) shall be augmented at the rate of $8\frac{1}{3}$ per
 15 centum of his monthly pay, and his basic compensation for
 16 disability payable under section 4 (a) shall be augmented at
 17 the rate of $8\frac{1}{3}$ per centum of the difference between his
 18 monthly pay and his monthly wage-earning capacity.

19 “(2) As used in this subsection, the term ‘dependent’
 20 shall mean any of the following:

21 “(A) A wife, if (i) she is a member of the same
 22 household as the employee or is receiving regular con-
 23 tributions from him toward her support, or (ii) he has
 24 been ordered by any court to contribute to her support.

25 “(B) A husband, if wholly dependent by reason

1 of his own physical or mental disability upon the em-
2 ployee for support.

3 “(C) An unmarried child (as defined in section
4 10 (H)), while such child (i) is under eighteen years
5 of age or, if over eighteen, is incapable of self-support
6 by reason of mental or physical disability, and (ii) is
7 living with the employee or receiving regular contribu-
8 tions toward his support from the employee.

9 “(D) A parent (as defined in section 10 (H)),
10 while wholly dependent upon and supported by the
11 employee.

12 “(b) (1) In addition to the monthly compensation
13 otherwise specified in this Act, the Administrator may pay
14 an injured employee who has been awarded compensation
15 for permanent total disability from injury an additional sum
16 of not more than \$75 a month, as the Administrator may
17 deem necessary, when the Administrator shall find that the
18 service of an attendant is necessary constantly to be used
19 by reason of the employee's being totally blind, or having
20 lost both hands or both feet or the use thereof, or being
21 paralyzed and unable to walk, or by reason of other total
22 disability actually rendering him so helpless as to require
23 constant attendance.

24 “(2) The Administrator may pay to any disabled indi-
25 vidual who is undergoing vocational rehabilitation pursuant to

1 the Administrator's direction under section 9 (b) additional
2 compensation necessary for his maintenance, but not to
3 exceed \$50 per month.

4 “(c) Except as otherwise authorized under section 42,
5 the monthly rate of compensation for total disability, includ-
6 ing any augmented compensation payable by reason of sub-
7 section (a) but not including any sum payable by reason of
8 subsection (b), shall not be less than \$112.50 per month,
9 unless the employee's monthly pay is less, in which case
10 his monthly rate of compensation shall be equal to his full
11 monthly pay.

12 “(d) (1) In the case of any person who at the time
13 of the injury was a minor or employed in a learner's capacity
14 and who, prior to the injury, was not physically or mentally
15 handicapped, the Administrator shall, on any review under
16 section 37 after the time when the wage-earning capacity
17 of such person would probably, but for the injury, have
18 increased, prospectively recompute the monetary compensa-
19 tion payable for disability on the basis of an assumed
20 monthly pay corresponding to such probable increased wage-
21 earning capacity. The Administrator may, on any review
22 under section 37 after a disabled employee has attained the
23 age of seventy years and the wage-earning capacity of the
24 disabled employee would probably, aside from and inde-
25 pendently of the effects of the injury, have decreased on

1 account of old age, prospectively recompute the monetary
 2 compensation payable for disability on the basis of an
 3 assumed monthly pay corresponding to such probable de-
 4 creased wage-earning capacity.

5 “(2) If a disabled individual, without good cause, fails
 6 to apply for and undergo vocational rehabilitation when so
 7 directed pursuant to section 9 (b), and the Administrator,
 8 upon review under section 37, finds that in the absence of
 9 such failure the individual's wage-earning capacity would
 10 probably have substantially increased, the Administrator may
 11 prospectively reduce the individual's monetary compensa-
 12 tion in accordance with what would probably have been
 13 his wage-earning capacity in the absence of such failure,
 14 until the individual in good faith complies with the Admin-
 15 istrator's direction.”

16 INCREASE IN DEATH BENEFITS, AND SO FORTH

17 SEC. 106. (a) Section 10 of the Federal Employees'
 18 Compensation Act, as amended (5 U. S. C., 1946 edition,
 19 sec. 760), is further amended by striking out “66 $\frac{2}{3}$ ” wher-
 20 ever it occurs and inserting in lieu thereof “75”; by striking
 21 out “35” in clauses (A) and (B) and inserting in lieu
 22 thereof “45”; by striking out, in clause (C), the words
 23 “the compensation payable under clause (A) or clause
 24 (B)” and inserting in lieu thereof “40 per centum”; by
 25 striking out “10” in clauses (C) and (D) and inserting

1 in lieu thereof "15"; and by striking out "25" in clause
2 (D) and inserting in lieu thereof "35".

3 (b) Clause (K) of such section, as amended, is further
4 amended to read as follows:

5 " (K) In computing compensation under this sec-
6 tion the monthly pay shall be considered not to be less
7 than \$150, but the total monthly compensation shall
8 not exceed the monthly pay computed as provided in
9 section 12."

10 (c) Clause (B) of such section, as so amended, is
11 further amended to read as follows:

12 " (B) To the widower, if there is no child, 45 per
13 centum if wholly dependent for support, by reason of
14 his physical or mental disability, upon the deceased
15 employee at the time of her death. This compensation
16 shall be paid until his death or marriage or until he
17 becomes capable of self-support."

18 (d) Such section, as so amended, is further amended
19 by striking out the second sentence of clause (C), the last
20 sentence of clause (D), and the last sentence of clause (G).

21 (e) Clause (L) of such section, as so amended, is
22 amended to read as follows:

23 " (L) If any person entitled to compensation under
24 this section or section 5 or 6, whose compensation by
25 the terms of this or of such other section ceases or is to

1 be reduced upon his marriage or upon the marriage of his
2 dependent, accepts any payments of compensation after
3 such marriage, he shall be punished by a fine of not
4 more than \$2,000 or by imprisonment for not more
5 than one year, or by both such fine and imprisonment.”

6 LIBERALIZATION OF BURIAL PAYMENTS

7 SEC. 107. Section 11, of the Federal Employees’ Com-
8 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
9 761), is further amended to read as follows:

10 “SEC. 11. If death results from the injury the United
11 States shall pay, to the personal representative of the deceased
12 employee or otherwise, funeral and burial expenses not to
13 exceed \$400, in the discretion of the Administrator. In the
14 case of an employee whose home is within the United States,
15 if his death results from the injury while he is away from
16 his home or official station or is outside of the United States,
17 or if his death results from other causes while he is away
18 from his home or official station for the purpose of receiving
19 medical or other services, appliances, or supplies under sec-
20 tion 9 or examination under section 21, and if so desired by
21 his relatives, the body shall, in the discretion of the Admin-
22 istrator, be embalmed and transported in a hermetically sealed
23 casket to the home or last place of residence of the employee
24 at the expense of the employees’ compensation fund. If, in

1 such cases, request for return of the body is not made by the
 2 decedent's relatives, the Administrator may provide for the
 3 disposition of the remains and incur, and cause payment from
 4 the employees' compensation fund, of such necessary trans-
 5 portation, funeral, and burial expenses as under the circum-
 6 stances shall be reasonable."

7 EXTENSION OF COVERAGE, AND SO FORTH

8 SEC. 108. (a) Section 40 of the Federal Employees'
 9 Compensation Act, as amended (5 U. S. C., 1946 edition,
 10 sec. 790), is further amended by designating the para-
 11 graphs thereof, following the introductory phrase, as para-
 12 graphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)",
 13 and "(h)", respectively.

14 (b) Paragraph (b) of such section, as so designated,
 15 defining the term "employee", is further amended to read
 16 as follows:

17 "(b) The term 'employee' includes (1) all civil offi-
 18 cers and employees of all branches of the Government of
 19 the United States (including members of Congress and
 20 officers and employees of instrumentalities of the United
 21 States wholly owned by the United States); (2) commis-
 22 sioned officers of the Regular Corps of the Public Health
 23 Service; (3) officers in the Reserve of the Public Health
 24 Service on active duty; (4) persons rendering personal
 25 services of a kind similar to those of civilian officers or

1 employees of the United States or to any department, inde-
2 pendent establishment, or agency thereof (including instru-
3 mentalities of the United States wholly owned by it), with-
4 out compensation or for nominal compensation, in any case
5 in which acceptance or use of such services is authorized by
6 an Act of Congress or in which provision is made by law
7 for payment of the travel or other expenses of such person;
8 and (5) persons, other than independent contractors and
9 their employees, employed on the Menominee Indian Reser-
10 vation in the State of Wisconsin, subsequent to September
11 7, 1916, in operations conducted pursuant to the Act en-
12 titled 'An Act to authorize the cutting of timber, the manu-
13 facture and sale of lumber, and the preservation of the
14 forests on the Menominee Indian Reservation in the State
15 of Wisconsin', approved March 28, 1908, as amended, or
16 any other Act relating to tribal timber and logging opera-
17 tions on the Menominee Reservation."

18 (c) Paragraph (c) of such section, as so designated,
19 defining the term "commission", is further amended by in-
20 serting "former" after the words "to the" and by striking
21 out the words "provided for in section 28".

22 (d) Paragraph (f) of such section, as so designated,
23 defining the term "monthly pay", is further amended by
24 inserting, immediately before the period, the following:

1 “except when otherwise determined under section 6 (d)
2 with respect to any period”.

3 (e) Such section is further amended by adding thereto
4 a new paragraph “(i)” reading as follows:

5 “(i) The term ‘Administrator’ means the Federal Se-
6 curity Administrator.”

7 INCREASE OF COMPUTATION BASE WHERE INJURY
8 OCCURRED BEFORE JULY 1, 1946

9 SEC. 109. Notwithstanding any other provision of this
10 Act or of the Federal Employees’ Compensation Act, the
11 monthly pay upon the basis of which compensation for
12 disability or death is computed under the Federal Em-
13 ployees’ Compensation Act, as amended, shall, effective on
14 the first day of the first calendar month following enactment
15 of this Act, be increased by 40 per centum if the injury
16 (or injury causing death) occurred before January 1, 1941,
17 or by 10 per centum if the injury (or injury causing death)
18 occurred on or after such date but before July 1, 1946,
19 except that such increase shall in neither event exceed \$50.
20 This section shall apply to any case of death caused by such
21 an injury, regardless of whether such death occurs or
22 occurred before or after the enactment of this Act.

TITLE II—TECHNICAL AMENDMENTS

EXCLUSIVENESS OF REMEDY

SEC. 201. Section 7 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 757), is further amended by inserting the designation "(a)" immediately before the first sentence thereof and by adding to such section a new subsection reading as follows:

"(b) The remedy afforded to any person under this Act with respect to his own injury or the death of another individual shall, unless otherwise specifically provided by law, be the exclusive remedy against, and be in place of any other legal liability of, the United States, or any of its instrumentalities wholly owned by it, on account of such injury or death, where such liability is determinable by direct judicial proceedings at law or in admiralty, or by proceedings under any other workmen's compensation law or under any Federal tort liability statute."

SEC. 202. Section 9 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 759), is amended by inserting before the first sentence thereof the designation "(a)" and by adding at the end of such section a new subsection reading as follows:

21

22

25

“SEC. 12. (a) In computing monetary compensation

1 for disability or death upon the basis of monthly pay, such
2 pay shall be determined in accordance with the provisions
3 of this section.

4 “(b) The value of subsistence and quarters, and of any
5 other form of remuneration in kind for services if its value
6 can be estimated in money, shall be included as part of the
7 pay. Overtime pay, or additional pay or allowance author-
8 ized outside the United States because of differential in cost
9 of living or other special circumstance, or bonus or premium
10 pay for extraordinary service (including amounts paid as
11 bonus for particularly hazardous service in time of war) shall
12 not be taken into account. The term ‘overtime pay’, as
13 used in this subsection, means pay for hours of service in
14 excess of those of a statutory or other basic workweek, or
15 other basic unit of worktime, as observed by the establish-
16 ment in which the employee is employed.

17 “(c) (1) The monthly pay at the time of injury shall be
18 deemed to be one-twelfth of the employee’s average annual
19 earnings at that time, except that when compensation is
20 paid upon a weekly basis, the weekly equivalent of such
21 monthly pay shall be deemed to be one fifty-second of such
22 average annual earnings: *Provided*, That for so much of the
23 period of total disability as does not exceed ninety calendar
24 days from the date of the beginning of compensable disability,
25 the compensation may, in the discretion of the Administrator,

1 be computed on the basis of the employee's actual daily
2 wage at the time of injury and in that event he may be paid
3 compensation for such days as he would have worked but
4 for the injury.

5 “(2) Average annual earnings shall be determined as
6 follows:

7 “(A) If the employee worked in the employment
8 in which he was working at the time of his injury
9 during substantially the whole of the year immediately
10 preceding such injury, his average annual earnings shall
11 consist of the product obtained by multiplying his daily
12 wage for the particular employment, or the average
13 thereof if the daily wage has fluctuated, by three hun-
14 dred if he was employed on the basis of a six-day work-
15 week, two hundred and eighty if employed on the basis
16 of a five and one-half day week, and two hundred and
17 sixty if employed on the basis of a five-day week,
18 except that if the employment was in a position for
19 which an annual rate of compensation was fixed, such
20 average annual earnings shall consist of such annual
21 rate of compensation.

22 “(B) If the injured employee did not work in
23 such employment during substantially the whole of such
24 year, but the position was such as would have afforded
25 employment for substantially a whole year, then the

1 average annual earnings of such employee shall be equal
2 to the average annual earnings of an employee of the
3 same class working substantially the whole of such
4 immediately preceding year in the same or similar
5 employment by the United States in the same or neigh-
6 boring place, as determined in accordance with clause
7 (A).

8 “(C) If either of the foregoing methods of deter-
9 mining the average annual earnings of an injured em-
10 ployee cannot reasonably and fairly be applied, such
11 average annual earnings shall be such sum as, having re-
12 gard to the previous earnings of the injured employee in
13 Federal employment, and of other employees of the
14 United States in the same or most similar class working
15 in the same or most similar employment in the same
16 or neighboring locality, or to other previous employ-
17 ment of such employee, or to any other relevant factors,
18 shall reasonably represent the annual earning capacity
19 of the injured employee in the employment in which
20 he was working at the time of the injury: *Provided*,
21 That his average annual earnings shall consist of not
22 less than one hundred and fifty times the average daily
23 wage which he shall have earned in such employment
24 during the days when so employed within the period of
25 one year immediately preceding his injury.

1 “(D) Such rules shall, so far as practicable, be also
2 applied in the case of an employee serving without pay
3 or at nominal pay: *Provided*, That (i) the average
4 annual earnings shall in no event exceed the basic rate
5 of annual compensation specified under the Classification
6 Act of 1923, as amended, for positions in grade CAF-15
7 or P-8 at the bottom of such grade, and (ii) if his
8 average annual earnings cannot reasonably and fairly
9 be determined in the manner otherwise provided in this
10 section, such average annual earnings shall be deter-
11 mined at the reasonable value of the service rendered
12 but not in excess of \$3,600 per annum.

13 “(d) As used in this section the term ‘year’ means a
14 period of twelve calendar months, or the equivalent thereof
15 as specified in regulations issued by the Administrator.”

16 COMPUTATION OF WAGE-EARNING CAPACITY

17 SEC. 204. Section 13 of the Federal Employees’ Com-
18 pensation Act (5 U. S. C., 1946 edition, sec. 763) is
19 amended to read as follows:

20 “SEC. 13. (a) In the determination of an employee’s
21 wage-earning capacity after the beginning of partial dis-
22 ability, the rules specified in section 12 (b) shall apply.

23 “(b) The wage-earning capacity of an injured em-
24 ployee, in determining compensation for partial disability
25 other than permanent partial disability compensable under

1 section 5 (a), shall be determined by his actual earnings
 2 if such actual earnings fairly and reasonably represent his
 3 wage-earning capacity: *Provided, however,* That if the em-
 4 ployee has no actual earnings, or his actual earnings do not
 5 fairly and reasonably represent his wage-earning capacity,
 6 such wage-earning capacity as shall appear reasonable under
 7 the circumstances of the case shall be determined, having
 8 due regard to the nature of his injury, the degree of physical
 9 impairment, his usual employment, and any other factors or
 10 circumstances in the case which may affect his capacity to
 11 earn wages in his disabled condition.”

12 ADMINISTRATOR SUBSTITUTED FOR COMMISSION

13 SEC. 205. (a) Section 28 of the Federal Employees’
 14 Compensation Act, as amended, is amended to read as
 15 follows:

16 “SEC. 28. This Act shall be administered by the Ad-
 17 ministrator.”

18 (b) Section 28a of such Act is repealed, but such repeal
 19 shall not be construed to revive any independent bureau or
 20 other agency abolished by such section.

21 (c) (1) The word “commission” (or other designa-
 22 tion of the commission), and the words “it” or “its” when-
 23 ever they refer to the commission, in any part of such Act,
 24 are struck out wherever necessary in order to give effect
 25 to subsection (a) of this section, and the words “Admin-

1 istrator” and “he” or “his”, respectively, are inserted in
2 lieu thereof.

3 (2) In addition, the phrase “, or any commissioner by
4 authority of the commission,” in section 29 of such Act is
5 struck out.

6 OVERPAYMENTS

7 SEC. 206. Section 38 of the Federal Employees’ Com-
8 pensation Act (5 U. S. C., 1946 edition, sec. 788), is
9 amended to read as follows:

10 “SEC. 38. (a) Subject to the provisions of sections 36
11 and 37, whenever by reason of an error of fact or law an
12 overpayment has been made to an individual under this
13 Act, proper adjustments shall be made, under regulations
14 prescribed by the Administrator, by decreasing subsequent
15 payments to which such individual is entitled. If such indi-
16 vidual dies before such adjustment has been completed,
17 adjustment shall be made by decreasing subsequent bene-
18 fits, if any, payable under this Act with respect to such
19 individual’s death.

20 “(b) There shall be no adjustment or recovery by the
21 United States in any case where incorrect payment has been
22 made to an individual who is without fault and where ad-
23 justment or recovery would defeat the purpose of this Act
24 or would be against equity and good conscience.

25 “(c) No certifying or disbursing officer shall be held

liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized.”

SHORT TITLE

SEC. 207. The Federal Employees’ Compensation Act, as amended, is further amended by adding thereto at the end thereof a new section as follows:

“SEC. 43. This Act may be cited as the ‘Federal Employees’ Compensation Act’.”

TITLE III—TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

EXTENSION OF TIME LIMITATIONS

SEC. 301. (a) Where an individual with respect to whose disability or death compensation is claimed under the Federal Employees’ Compensation Act, as amended, was injured or died outside the United States on or after December 7, 1941, and before August 11, 1946, the time limitations of such Act with respect to the giving of notice of injury and the filing of a claim for compensation shall not begin to run until the date of enactment of this Act.

(b) As used in this subsection, the term “United States” includes only the States, Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the Canal Zone.

COMPROMISE SETTLEMENTS—PRIVATE ACTS

SEC. 302. The provisions of this Act shall not be construed to authorize the payment of any compensation under the Federal Employees' Compensation Act in any case where, pursuant to private relief legislation, a beneficiary of such legislation has accepted payment of a grant in satisfaction of the liability of the United States (or its corporation, agency, or other instrumentality) in such case, or where such liability has been compromised and settled, or other satisfaction received, as the result of any action sounding in tort or under maritime law, or where a lump sum has been received under section 14 of the Federal Employees' Compensation Act and the lump-sum award is not modified or set aside for other reasons.

EFFECTIVE OPERATION

SEC. 303. (a) Except as otherwise provided by this section or in this Act, titles I and II of this Act shall take effect on the date of enactment of this Act and be applicable to any injury or death occurring before or after such date.

(b) The amendments made by section 101 of this Act to sections 2 and 8 of the Federal Employees' Compensation Act shall not apply to any period of disability commencing before the enactment of this Act.

(c) The amendments made by sections 102, 103, 105, and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of

1 the Federal Employees' Compensation Act shall be applicable
2 to cases of injury or death occurring before enactment of
3 this Act only with respect to any period beginning on or
4 after the first day of the first calendar month following the
5 enactment of this Act.

6 (d) (1) The amendments made by section 104 of this
7 Act to section 5 of the Federal Employees' Compensation
8 Act, establishing special provisions for permanent disability
9 involving the loss, or loss of use, of a member or function
10 of the body, or disfigurement, shall apply retroactively to
11 any case in which the injury occurred within one year prior
12 to the enactment of this Act: *Provided*, That where the
13 injury occurred before such enactment, except in cases speci-
14 fied in subsection (b) of section 5 of such Act, as so amended,
15 the injured employee shall not be entitled to compensation
16 under the schedule unless within one year after such date
17 of enactment he elects to receive compensation under the
18 schedule if so entitled: *And provided further*, That in the
19 event of such election, all amounts theretofore paid on the
20 basis of loss of wage-earning capacity as compensation for
21 permanent partial disability involving a loss, or loss of use,
22 of a member or function, or disfigurement, as specified in the
23 schedule shall be credited against any compensation awarded
24 by reason of such amendment.

25 (2) No payment upon death pursuant to section 5 (d)

1 of the Federal Employees' Compensation Act, as amended
2 by this Act, shall be made unless death occurs after such
3 enactment. In the event of such death, the election required
4 by paragraph (1) of this subsection shall be deemed to
5 have been made.

6 (e) Section 107 of this Act, amending section 11 of
7 the Federal Employees' Compensation Act, shall apply only
8 to deaths occurring after the enactment of this Act.

9 (f) (1) The amendments made by section 108 of this
10 Act to the definition of the term "employee" contained in
11 section 40 of the Federal Employees' Compensation Act
12 shall, as to any case of injury or death occurring before the
13 date of enactment of this Act, apply only to injuries or
14 deaths occurring on or after December 7, 1941, and com-
15 pensation (including medical or other benefits) in any such
16 case shall not be paid for any period earlier than the first
17 day of the first month following enactment of this Act and,
18 in cases of disability caused by such an injury, shall be
19 limited to compensation for permanent partial or permanent
20 total disability.

21 (2) The time limitations of the Federal Employees'
22 Compensation Act with respect to the giving of notice of
23 injury and the filing of a claim for compensation, in any
24 case brought within the purview of section 40 of such Act

1 by this Act, shall not begin to run until the date of enact-
2 ment of this Act.

3 (g) The amendment made by section 201 of this Act
4 to section 7 of the Federal Employees' Compensation Act,
5 making the remedy and liability under such Act exclusive,
6 shall not apply to any case of injury or death occurring
7 prior to the enactment of this Act in which liability other
8 than that arising under such Act, or any extension thereof,
9 was finally determined prior to the enactment of this Act.

10 (h) The amendments made by sections 203 and 204
11 of this Act to sections 12 and 13 of the Federal Employees'
12 Compensation Act, pertaining to the determination of the
13 employee's pay or his wage-earning capacity, may, in the
14 interest of justice and in the discretion of the Administrator,
15 be applied in any case, irrespective of the date of injury
16 or death, so as to cause payments of compensation, with
17 respect to any period not earlier than the first day of the
18 first month after enactment of this Act, to be consistent with
19 such amendments.

20 TIME LIMITATIONS NOT EXTENDED

21 SEC. 304. Except as otherwise expressly provided, the
22 enactment of this Act shall not suspend or defer the running
23 of the time limitations of the Federal Employees' Compensa-
24 tion Act with respect to the giving of notice of injury and
25 filing of a claim for compensation.

TITLE IV

LIBERALIZATION OF MAXIMUM COMPENSATION FOR
EMERGENCY RELIEF WORKERS

SEC. 401. (a) Clauses (a), (b), and (c), of the second proviso to section 1 of the Act approved February 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended to read as follows:

“(a) that the aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of \$4,000 and that the monthly monetary compensation shall not in any event exceed \$100, both exclusive of medical costs;

“(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as provided by section 10 (K) of such Act, the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$75 and compensation shall be payable on the basis of such pay regardless of the actual pay at the time of injury or death, except that the Federal Security Administrator may from time to time, by regulation, fix a lower minimum monthly pay as a basis for computing such com-

1 pensation as to any class of individuals, specified in
2 the fourth paragraph of Section 42 of such Act, as
3 amended, who sustained injury or were killed outside
4 the continental United States;

5 “(c) that the Federal Security Administrator may
6 from time to time, subject to the above limitations,
7 establish a special schedule of compensation for disability
8 and for death (including a special schedule of compen-
9 sation for the loss, or loss of use, of members or func-
10 tions of the body), and compensation under such
11 schedule shall be in lieu of all other compensation in such
12 cases;”.

13 (b) The first proviso to section 8 of the Emergency
14 Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352,
15 356), and the first proviso to section 16 of the Emergency
16 Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809,
17 814), are repealed.

18 (c) This section shall apply to any case heretofore or
19 hereafter coming within the purview of such Act of Febru-
20 ary 15, 1934, but no compensation shall, with respect to
21 any case of injury or death occurring before the date of
22 enactment of this Act, accrue or be increased by reason of
23 the enactment of this section for any period prior to the
24 first day of the first month following the date of enactment
25 of this Act,

1 (d) The special schedule of compensation heretofore
2 established pursuant to clause (a) of the second proviso to
3 section 1 of such Act of February 15, 1934, shall remain
4 in effect until superseded by a new schedule established
5 pursuant to the amendments made by this section.

6 MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

7 SEC. 402. Effective as of July 25, 1947, paragraph a
8 of section 2 of the Act approved July 25, 1947 (ch. 327,
9 61 Stat. 449, 451), is amended by striking out the semi-
10 colon at the end of the provision repealing the Act of
11 July 1, 1943 (57 Stat. 371), and the Act of May 14,
12 1942 (56 Stat. 278), as amended, and inserting in lieu
13 thereof a colon and the following proviso: "*Provided, That*
14 section 11 of such Act of May 14, 1942, shall remain in
15 effect to the extent specified in section 5 of such Act of
16 July 1, 1943;".

A BILL

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended.

By Mr. THOMAS of Utah

MARCH 17 (legislative day, FEBRUARY 21), 1949

Read twice and referred to the Committee on Labor
and Public Welfare

Please return to

Division of Legislative Reports
Office of Budget and Finance

FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1949

HEARINGS

BEFORE A

SPECIAL SUBCOMMITTEE OF THE COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES

EIGHTY-FIRST CONGRESS

FIRST SESSION

ON

H. R. 3191

AND COMPANION BILLS

TO AMEND PUBLIC LAW 267,
SIXTY-FOURTH CONGRESS

HEARINGS HELD AT WASHINGTON, D. C.

APRIL 11, 12, 13, AND MAY 2, 1949

Printed for the use of the Committee on Education and Labor



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FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1949

MONDAY, APRIL 11, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to notice, at 10 a. m., Hon. Augustine B. Kelley (chairman) presiding.

Mr. KELLEY. The meeting will come to order.

This subcommittee meets this morning to consider the bills—there are several of them—that we have before us, to amend the act approved September 7, 1916, entitled “An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes.”

The bills are H. R. 3191, H. R. 76, H. R. 325, H. R. 468, H. R. 475, H. R. 1236, H. R. 1743, and H. R. 2647.

(The bills referred to are companion bills and very similar to H. R. 3191. H. R. 3191 is as follows:)

[H. R. 3191, 81st Cong., 1st sess.]

A BILL To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled “An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes,” as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the “Federal Employees’ Compensation Act Amendments of 1949.”

TITLE I—SUBSTANTIVE AMENDMENTS

WAITING PERIOD MODIFIED

SEC. 101. (a) Section 2 of the Act approved September 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act referred to as the “Federal Employees’ Compensation Act”), as amended (5 U. S. C., 1946 edition, sec. 752), is hereby amended to read as follows:

“SEC. 2. That with respect to the first three days of temporary disability the employee shall not be entitled to compensation except as provided in section 9, unless such disability exceeds twenty-one days in duration or is followed by permanent disability.”

(b) Section 8 of such Act (5 U. S. C., 1946 edition, section 758) is amended to read as follows:

“SEC. 8. If at the time the disability begins the employee has annual or sick leave to his credit he may use such leave until it is exhausted, in which case his compensation for disability shall not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased.”

BASIC BENEFIT FOR TOTAL DISABILITY

SEC. 102. Section 3 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 753), is hereby amended to read as follows:

"SEC. 3. (a) Except as otherwise provided in this Act, if the disability is total the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 63 $\frac{2}{3}$ per centum of his monthly pay, which shall be known as his basic compensation for total disability.

"(b) Loss, or loss of use, of both hands, or both arms, or both feet, or both legs, or both eyes or the sight thereof, or of any two thereof shall, *prima facie*, constitute permanent total disability."

BASIC BENEFIT FOR PARTIAL DISABILITY

SEC. 103. (a) Section 4 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 754), is further amended to read as follows:

"SEC. 4. (a) (1) Except as otherwise provided in this Act, if the disability is partial the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66 $\frac{2}{3}$ per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability, which shall be known as his basic compensation for partial disability.

"(2) The Administrator may require a partially disabled employee to make an affidavit or other report, in such manner and at such times as the Administrator may specify, as to his earnings, whether for employment or self-employment. In such affidavit or other report the employee shall include, when required, the value of housing, board, lodging, and other advantages which are part of his remuneration for employment or are earnings in self-employment and which can be estimated in money. If such individual, when required, fails to make such affidavit or other report, or if in such affidavit or report the employee knowingly omits or understates any part of such earnings or remuneration, he shall forfeit his right to compensation with respect to any period for which such report was required to be made, and such compensation, if already paid, shall be recovered by deducting the amount thereof from the compensation payable to him or otherwise recovered in accordance with section 38, unless such recovery is waived pursuant to such action.

"(b) If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation."

(b) Section 39 of such Act (5 U. S. C., 1946 edition, sec. 789) is amended by inserting after "affidavit" the words "or reported."

SCHEDULED DISABILITIES

SEC. 104. Section 5 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 755), is amended to read as follows:

"SEC. 5 (a) In any case of permanent disability which involves solely the loss, or loss of use, of a member or function of the body, or disfigurement, as provided in the following schedule, basic compensation for such disability shall, in addition to compensation for any temporary total or temporary partial disability, be payable to the disabled employee for the period specified in such schedule at the rate of 66 $\frac{2}{3}$ per centum of his monthly pay and shall, except as otherwise provided in subsection (b), be in line of compensation for such permanent disability under the preceding sections of this Act:

- "(1) Arm lost, three hundred and twelve weeks' compensation.
- "(2) Leg lost, two hundred and eighty-eight weeks' compensation.
- "(3) Hand lost, two hundred and forty-four weeks' compensation.
- "(4) Foot lost, two hundred and five weeks' compensation.
- "(5) Eye lost, one hundred and sixty weeks' compensation.
- "(6) Thumb lost, seventy-five weeks' compensation.
- "(7) First finger lost, forty-six weeks' compensation.
- "(8) Great toe lost, thirty-eight weeks' compensation.
- "(9) Second finger lost, thirty weeks' compensation.
- "(10) Third finger lost, twenty-five weeks' compensation.
- "(11) Toe other than great toe lost, sixteen weeks' compensation.

"(12) Fourth finger lost, fifteen weeks' compensation.

"(13) Loss of hearing: (A) Complete loss of hearing of one ear, fifty-two weeks' compensation; (B) complete loss of hearing of both ears, two hundred weeks' compensation.

"(14) Binocular vision or percentage of vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for the loss of the eye.

"(15) Phalanges: Compensation for loss of more than one phalanx of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalanx shall be one-half of the compensation for loss of the entire digit.

"(16) Amputated arm or leg: If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation shall be the same as for the loss of the arm or leg, respectively.

"(17) Two or more digits: Compensation for loss, or loss of use, of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, shall be proportioned to the loss of use of the hand or foot occasioned thereby.

"(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

"(19) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. The degree of loss of vision or hearing under this schedule shall be determined without regard to correction.

"(20) In any case in which there shall be a loss or loss of use, of more than one member or parts of more than one member as enumerated herein, the award of compensation shall be for the loss, or loss of use, of each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.

"(21) Disfigurement: Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

"(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision, or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual's basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be 66⅔ per centum of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is total or as provided in subsection (a) of section 4 if the disability is partial.

"(c) The period of compensation payable under the schedule to subsection (a) of this section on account of any injury shall be reduced by the period of compensation paid or payable under such schedule on account of a prior injury if compensation in both cases is for disability of the same member or function, or different parts of the same member or function, or for disfigurement, and the Administrator finds that compensation payable on account of the subsequent disability in whole or in part would duplicate the compensation payable on account of the preexisting disability. In such cases, for the purpose of disabilities specified in subsection (b), compensation for disability continuing after the scheduled period shall commence upon expiration of such period as reduced under this subsection.

"(d) (1) If an individual who has sustained disability compensable under subsection (a) (including any disability compensable under the schedule to subsection (a) by virtue of subsection (b)), and who has filed a valid claim in his lifetime, dies, from causes other than the injury, before the expiration of the compensable period specified in such schedule, the compensation specified in such schedule and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in such schedule, to and for the benefit of the persons

then in being within the classes and in the proportions and upon the conditions specified in this subsection and in the order named:

"(A) to the widow (as defined in section 10 (H)) or wholly dependent widower (as specified in section 10 (B)), if there is no child (as so defined) under the age of eighteen or incapable of self-support; or

"(B) if there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

"(C) if there is no such widow or widower but such a child or children, then to such child or children; or

"(D) if there is no survivor in the above classes, then to the parent or parents wholly or partly dependent for support upon the decedent, or to other wholly or partly dependent relatives listed in section 10 (F), or to both, in such proportions as may be provided by regulation; or

"(E) if there is no survivor in any of the above classes, and no burial allowance is payable under section 11, then such amount, not exceeding the amount which would be expendable under section 11 if such section were applicable, shall be paid to reimburse any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

"(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual's death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent partial disability specified in subsection (b), even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

"(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

"(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would have been payable to him had such entitlement continued shall be payable to the surviving beneficiary or beneficiaries, if any, within the same class or, if there are none, then to the beneficiary or beneficiaries next entitled to priority under such paragraph."

ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM BENEFIT AMOUNT—
DEPENDENTS' BENEFITS, AND SO FORTH

SEC. 10~~5~~. (a) Section 6 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 756), is further amended to read as follows:

"SEC. 6. (a) (1) While the disabled employee has one or more dependents, his basic commensation for disability payable under section 3 or section 5 (a) (including compensation payable under the schedule to section 5 (a) by virtue of section 5 (b)), shall be augmented at the rate of 8½ per centum of his monthly pay, and his basic compensation for disability payable under section 4 (a) shall be augmented at the rate of 8½ per centum of the difference between his monthly pay and his monthly wage-earning capacity.

"(2) As used in this subsection, the term 'dependent' shall mean any of the following:

"(A) A wife, if (i) she is a member of the same household as the employee or is receiving regular contributions from him toward her support, or (ii) he has been ordered by any court to contribute to her support.

"(B) A husband, if wholly dependent by reason of his own physical or mental disability upon the employee for support.

"(C) An unmarried child (as defined in section 10 (H)), while such child (i) is under eighteen years of age or, if over eighteen, is incapable of self-support by reason of mental or physical disability, and (ii) is living with the employee or receiving regular contributions toward his support from the employee.

"(D) A parent (as defined in section 10 (H)), while wholly dependent upon and supported by the employee.

"(b) (1) In addition to the monthly compensation otherwise specified in this Act, the Administrator may pay an injured employee, who has been awarded compensation for permanent total disability from injury, an additional sum of not more than \$75 a month, as the Administrator may deem necessary, when the Administrator shall find that the service of an attendant is necessary constantly to be used by reason of the employee's being total blind, or having lost both hands or both feet or the use thereof, or being paralyzed and unable to walk, or by reason of other total disability actually rendering him so helpless as to require constant attendance.

"(2) The Administrator may pay to any disabled individual who is undergoing vocational rehabilitation pursuant to the Administrator's direction under section 9 (b) additional compensation necessary for his maintenance, but not to exceed \$50 per month.

"(c) Except as otherwise authorized under section 42, the monthly rate of compensation for total disability, including any augmented compensation payable by reason of subsection (a) but not including any sum payable by reason of subsection (b), shall not be less than \$112.50 per month, unless the employee's monthly pay is less in which case his monthly rate of compensation shall be equal to his full monthly pay.

"(d) (1) In the case of any person who at the time of the injury was a minor or employed in a learner's capacity and who prior, to the injury, was not physically or mentally handicapped, the Administrator shall, on any review under section 37 after the time when the wage-earning capacity of such person would probably, but for the injury, have increased, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable increased wage-earning capacity. The Administrator may, on any review under section 37 after a disabled employee has attained the age of seventy years and the wage-earning capacity of the disabled employee would probably, aside from and independently of the effects of the injury, have decreased on account of old age, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable decreased wage-earning capacity.

"(2) If a disabled individual, without good cause, fails to apply for and undergo vocational rehabilitation when so directed pursuant to section 9 (b), and the Administrator, upon review under section 37, finds that in the absence of such failure the individual's wage-earning capacity would probably have substantially increased, the Administrator may prospectively reduce the individual's monetary compensation in accordance with what would probably have been his wage-earning capacity in the absence of such failure, until the individual in good faith complies with the Administrator's direction."

INCREASE IN DEATH BENEFITS, AND SO FORTH

SEC. 106. (a) Section 10 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 760), is further amended by striking out "66⅔" wherever it occurs and inserting in lieu thereof "75"; by striking out "35" in clauses (A) and (B) and inserting in lieu thereof "45"; by striking out in clause (C) the words "the compensation payable under clause (A) or clause (B)" and inserting in lieu thereof "40 per centum"; by striking out "10" in clauses (C) and (D) and inserting in lieu thereof "15"; and by striking out "25" in clause (D) and inserting in lieu thereof "35".

(b) Clause (K) of such section, as amended, is further amended to read as follows:

"(K) In computing compensation under this section the monthly pay shall be considered not to be less than \$150, but the total monthly compensation shall not exceed the monthly pay computed as provided in section 12."

(c) Clause (B) of such section, as so amended, is further amended to read as follows:

"(B) To the widower, if there is no child, 45 per centum if wholly dependent for support, by reason of his physical or mental disability, upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage or until he becomes capable of self-support."

(d) Such section, as so amended, is further amended by striking out the second sentence of clause (C), the last sentence of clause (D), and the last sentence of clause (G).

(e) Clause (L) of such section, as so amended, is amended to read as follows:

"(L) If any person entitled to compensation under this section or section 5 or 6, whose compensation by the terms of this or of such other section ceases or is to be reduced upon his marriage or upon the marriage of his dependent, accepts any payments or compensation after such marriage, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment."

LIBERALIZATION OF BURIAL PAYMENTS

SEC. 107. Section 11 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 761), is further amended to read as follows:

"SEC. 11. If death results from the injury the United States shall pay, to the personal representative of the deceased employee or otherwise, funeral and burial expenses not to exceed \$400, in the discretion of the Administrator. In the case of an employee whose home is within the United States, if his death results from the injury while he is away from his home or official station or is outside of the United States, or if his death results from other causes while he is away from his home or official station for the purpose of receiving medical or other services, appliances, or supplies under section 9 or examination under section 21, and if so desired by his relatives, the body shall, in the discretion of the Administrator, be embalmed and transported in a hermetically sealed casket to the home or last place of residence of the employee at the expense of the employees' compensation fund. If, in such cases, request for return of the body is not made by the decedent's relatives, the Administrator may provide for the disposition of the remains and incur, and cause payment from the employees' compensation fund of, such necessary transportation, funeral, and burial expenses as under the circumstances shall be reasonable."

EXTENSION OF COVERAGE, AND SO FORTH

SEC. 108. (a) Section 40 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 730), is further amended, by designating the paragraphs thereof, following the introductory phrase, as paragraphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)", and "(h)", respectively.

(b) Paragraph (b) of such section, as so designated, defining the term "employee", is further amended to read as follows:

"(b) The term 'employee' includes (1) all civil officers and employees of all branches of the Government of the United States (including Members of Congress and officers and employees of instrumentalities of the United States wholly owned by the United States); (2) commissioned officers of the Regular Corps of the Public Health Service; (3) officers in the Reserve of the Public Health Service on active duty; (4) persons rendering personal services of a kind similar to those of civilian officers or employees of the United States or to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it), without compensation or for nominal compensation, in any case in which acceptance or use of such services is authorized by an Act of Congress or in which provision is made by law for payment of the travel or other expenses of such person; and (5) persons, other than independent contractors and their employees, employed on the Menominee Indian Reservation in the State of Wisconsin, subsequent to September 7, 1916, in operations conducted pursuant to the Act entitled 'An Act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin', approved March 28, 1908, as amended, or any other Act relating to tribal timber and logging operations on the Menominee Reservation."

(c) Paragraph (c) of such section, as so designated, defining the term "commission", is further amended by inserting "former" after the words "to the" and by striking out the words "provided for in section 28".

(d) Paragraph (f) of such section, as so designated, defining the term "monthly pay", is further amended by inserting, immediately before the period, the following: "except when otherwise determined under section 6 (d) with respect to any period".

(e) Such section is further amended by adding thereto a new paragraph "(i)" reading as follows:

"(i) The term 'Administrator' means the Federal Security Administrator."

INCREASE OF COMPUTATION BASE WHERE INJURY OCCURRED BEFORE JULY 1, 1946

SEC. 109. Notwithstanding any other provision of this Act or of the Federal Employees' Compensation Act, the monthly pay upon the basis of which compensation for disability or death is computed under the Federal Employees' Compensation Act, is amended, shall, effective on the first day of the first calendar month following enactment of this Act, be increased by 40 per centum if the injury (or injury causing death) occurred before January 1, 1941, or by 10 per centum if the injury (or injury causing death) occurred on or after such date but before July 1, 1946, except that such increase shall in neither event exceed \$50. This section shall apply to any case of death caused by such an injury, regardless of whether such death occurs or occurred before or after the enactment of this Act.

TITLE II—TECHNICAL AMENDMENTS

EXCLUSIVENESS OF REMEDY

SEC. 201. Section 7 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 757), is further amended by inserting the designation "(a)" immediately before the first sentence thereof and by adding to such section a new subsection reading as follows:

"(b) The remedy afforded to any person under this Act with respect to his own injury or the death of another individual shall, unless otherwise specifically provided by law, be the exclusive remedy against, and be in place of any other legal liability of, the United States, or any of its instrumentalities wholly owned by it, on account of such injury or death, where such liability is determinable by direct judicial proceedings at law or in admiralty, or by proceedings under any other workmen's compensation law or under any Federal tort liability statute."

SEC. 202. Section 9 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 759), is amended by inserting before the first sentence thereof the designation "(a)" and by adding at the end of such section a new subsection reading as follows:

"(b) The Administrator may direct any permanently disabled individual whose disability is compensable under this Act to undergo vocational rehabilitation and shall make provision for furnishing vocational rehabilitation services in such cases. In providing for such services, the Administrator shall, insofar as practicable, utilize the services or facilities of State agencies (or corresponding agencies in Territories or possessions) cooperating with him in carrying out the purposes of the Vocational Rehabilitation Act, as amended, except to the extent that the Administrator provides for furnishing such services under subsection (a) of this section. The cost of providing such services to individuals undergoing vocational rehabilitation pursuant to such direction shall be paid from the employees' compensation fund, except that in reimbursing any State agency (or corresponding agency of a Territory or possession) under any arrangement pursuant to this subsection there shall be excluded any cost to such agency reimbursable in full under section 3 (a) (4) of the Vocational Rehabilitation Act, as amended."

COMPUTATION OF PAY

SEC. 203. Section 12 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 762) is amended to read as follows:

"SEC. 12. (a) In computing monetary compensation for disability or death upon the basis of monthly pay, such pay shall be determined in accordance with the provisions of this section.

"(b) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, shall be included as part of the pay. Overtime pay, or additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstance, or bonus or premium pay for extraordinary service (including amounts paid as bonus for particularly hazardous service in time of war) shall not be taken into account. The term 'overtime', as used in this subsection, means pay for hours of service in excess of those of a statutory or other basic workweek, or other basic unit of work time, as observed by the establishment in which the employee is employed.

"(c) (1) The monthly pay at the time of injury shall be deemed to be one-twelfth of the employee's average annual earnings at that time, except that when

compensation is paid upon a weekly basis, the weekly equivalent of such monthly pay shall be deemed to be one-fifty-second of such average annual earnings: *Provided*, That, for so much of the period of total disability as does not exceed ninety calendar days from the date of the beginning of compensable disability, the compensation may, in the discretion of the Administrator, be computed on the basis of the employee's actual daily wage at the time of injury and in that event he may be paid compensation for such days as he would have worked but for the injury.

"(2) Average annual earnings shall be determined as follows:

"(A) If the employee worked in the employment in which he was working at the time of his injury during substantially the whole of the year immediately preceding such injury, his average annual earnings shall consist of the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by three hundred if he was employed on the basis of a six-day workweek, two hundred and eighty if employed on the basis of a five-and-one-half-day week, and two hundred and sixty if employed on the basis of a five-day week, except that if the employment was in a position for which an annual rate of compensation was fixed, such average annual earnings shall consist of such annual rate of compensation.

"(B) If the injured employee did not work in such employment during substantially the whole of such year, but the position was such as would have afforded employment for substantially a whole year, then the average annual earnings of such employee shall be equal to the average annual earnings of an employee of the same class working substantially the whole of such immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined in accordance with clause (A).

"(C) If either of the foregoing methods of determining the average annual earnings of an injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring locality, or to other previous employment of such employee, or to any other relevant factors, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury: *Provided*, That his average annual earnings shall consist of not less than one hundred and fifty times the average daily wage which he shall have earned in such employment during the days when so employed within the period of one year immediately preceding his injury.

"(D) Such rules shall, so far as practicable, be also applied in the case of an employee serving without pay or at nominal pay: *Provided*, That (i) the average annual earnings shall in no event exceed the basic rate of annual compensation specified under the Classification Act of 1932, as amended, for positions in grade CAF-15 or P-8 at the bottom of such grade, and (ii) if his average annual earnings cannot reasonably and fairly be determined in the manner otherwise provided in this section, such average annual earnings shall be determined at the reasonable value of the service rendered but not in excess of \$3,600 per annum.

"(d) As used in this section the term 'year' means a period of twelve calendar months, or the equivalent thereof as specified in regulations issued by the Administrator."

COMPUTATION OF WAGE-EARNING CAPACITY

SEC. 204. Section 13 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 763), is amended to read as follows:

"SEC. 13. (a) In the determination of an employee's wage-earning capacity after the beginning of partial disability, the rules specified in section 12 (b) shall apply.

"(b) The wage-earning capacity of an injured employee, in determining compensation for partial disability other than permanent partial disability compensable under section 5 (a), shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however*, That if the employee has no actual earnings, or his actual earnings do not fairly and reasonably represent his wage-earning capacity, such

wage-earning capacity as shall appear reasonable under the circumstances of the case shall be determined, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition."

ADMINISTRATOR SUBSTITUTED FOR COMMISSION

SEC. 205 (a) Section 28 of the Federal Employees' Compensation Act, as amended, is amended to read as follows:

"SEC. 28. This Act shall be administered by the Administrator."

(b) Section 28a of such Act is repealed, but such repeal shall not be construed to revive any independent bureau or other agency abolished by such section.

(c) (1) The word "commission" (or other designation of the commission), and the word "it" or "its" whenever they refer to the commission, in any part of such Act, are struck out wherever necessary in order to give effect to subsection (a) of this section, and the words "Administrator" and "he" or "his," respectively, are inserted in lieu thereof.

(2) In addition, the phrase "or any commissioner by authority of the commission," in section 29 of such Act is struck out.

OVERPAYMENTS

SEC. 206. Section 38 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 788), is amended to read as follows:

"SEC. 38. (a) Subject to the provisions of sections 36 and 37, whenever by reason of an error of fact or law an overpayment has been made to an individual under this Act, proper adjustments shall be made, under regulations prescribed by the Administrator, by decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by decreasing subsequent benefits, if any, payable under this Act with respect to such individual's death.

"(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault and where adjustment or recovery would defeat the purpose of this Act or would be against equity and good conscience.

"(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized."

SHORT TITLE

SEC. 207. The Federal Employees' Compensation Act, as amended, is further amended by adding thereto at the end thereof a new section as follows:

"SEC. 43. This Act may be cited as the 'Federal Employees' Compensation Act.'"

TITLE III—TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

EXTENSION OF TIME LIMITATIONS

SEC. 301. (a) Where an individual with respect to whose disability or death compensation is claimed under the Federal Employees' Compensation Act, as amended, was injured or died outside the United States on or after December 7, 1941, and before August 11, 1946, the time limitations of such Act with respect to the giving of notice of injury and the filing of a claim for compensation shall not begin to run until the date of enactment of this Act.

(b) As used in this subsection, the term "United States" includes only the States, Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the Canal Zone.

COMPROMISE SETTLEMENTS—PRIVATE ACTS

SEC. 302. The provisions of this Act shall not be construed to authorize the payment of any compensation under the Federal Employees' Compensation Act in any case where, pursuant to private relief legislation, a beneficiary or such legislation has accepted payment of a grant in satisfaction of the liability of the United States (or its corporation, agency, or other instrumentality) in such

case, or where such liability has been compromised and settled, or other satisfaction received, as the result of any action sounding in tort or under maritime law, or where a lump sum has been received under section 14 of the Federal Employee's Compensation Act and the lump-sum award is not modified or set aside for other reasons.

EFFECTIVE OPERATION

SEC. 303. (a) Except as otherwise provided by this section or in this Act, titles I and II of this Act shall take effect on the date of enactment of this Act and be applicable to any injury or death occurring before or after such date.

(b) The amendments made by section 101 of this Act to sections 2 and 8 of the Federal Employees' Compensation Act shall not apply to any period of disability commencing before the enactment of this Act.

(c) The amendments made by sections 102, 103, 105, and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of the Federal Employees' Compensation Act shall be applicable to cases of injury or death occurring before enactment of this Act only with respect to any period beginning on or after the first day of the first calendar month following the enactment of this Act.

(d) (1) The amendments made by section 104 of this Act to section 5 of the Federal Employees' Compensation Act, establishing special provisions for permanent disability involving the loss, or loss of use, of a member or function of the body, or disfigurement, shall apply retroactively to any case in which the injury occurred within one year prior to the enactment of this Act: *Provided*, That where the injury occurred before such enactment, except in cases specified in subsection (b) of section 5 of such Act, as so amended, the injured employee shall not be entitled to compensation under the schedule unless within one year after such date of enactment he elects to receive compensation under the schedule if so entitled: *And provided further*, That in the event of such election, all amounts theretofore paid on the basis of loss of wage-earning capacity as compensation for permanent partial disability involving a loss, or loss of use, of a member or function, or disfigurement, as specified in the schedule shall be credited against any compensation awarded by reason of such amendment.

(2) No payment upon death pursuant to section 5 (d) of the Federal Employees' Compensation Act, as amended by this Act, shall be made unless death occurs after such enactment. In the event of such death, the election required by paragraph (1) of this subsection shall be deemed to have been made.

(e) Section 107 of this Act, amending section 11 of the Federal Employees' Compensation Act, shall apply only to deaths occurring after the enactment of this Act.

(f) (1) The amendments made by section 108 of this Act to the definition of the term "employee" contained in section 40 of the Federal Employees' Compensation Act shall, as to any case of injury or death occurring before the date of enactment of this Act, apply only to injuries or deaths occurring on or after December 7, 1941, and compensation (including medical or other benefits) in any such case shall not be paid for any period earlier than the first day of the first month following enactment of this Act and, in cases of disability caused by such an injury, shall be limited to compensation for permanent partial or permanent total disability.

(2) The time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and the filing of a claim for compensation, in any case brought within the purview of section 40 of such Act by this Act, shall not begin to run until the date of enactment of this Act.

(g) The amendment made by section 201 of this Act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such Act exclusive, shall not apply to any case of injury or death occurring prior to the enactment of this Act in which liability other than that arising under such Act, or any extension thereof, was finally determined prior to the enactment of this Act.

(h) The amendments made by sections 203 and 204 of this Act to sections 12 and 13 of the Federal Employees' Compensation Act, pertaining to the determination of the employee's pay or his wage-earning capacity, may, in the interest of justice and in the discretion of the Administrator, be applied in any case, irrespective of the date of injury or death, so as to cause payments of compensation, with respect to any period not earlier than the first day of the first month after enactment of this Act, to be consistent with such amendments.

TIME LIMITATIONS NOT EXTENDED

SEC. 304. Except as otherwise expressly provided, the enactment of this Act shall not suspend or defer the running of the time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and filing of a claim for compensation.

TITLE IV

LIBERALIZATION OF MAXIMUM COMPENSATION FOR EMERGENCY RELIEF WORKERS

SEC. 401. (a) Clauses (a), (b), and (c) of the second proviso to section 1 of the Act approved February 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended to read as follows:

"(a) that the aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of \$4,000 and that the monthly monetary compensation shall not in any event exceed \$100, both exclusive of medical costs;

"(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as provided by section 10 (K) of such Act, the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$75 and compensation shall be payable on the basis of such pay regardless of the actual pay at the time of injury or death, except that the Federal Security Administrator may from time to time, by regulation, fix a lower minimum monthly pay as a basis for computing such compensation as to any class of individuals, specified in the fourth paragraph of section 42 of such Act, as amended, who sustained injury or were killed outside the continental United States;

"(c) that the Federal Security Administrator may from time to time, subject to the above limitations, establish a special schedule of compensation for disability and for death (including a special schedule of compensation for the loss, or loss of use, of members or functions of the body), and compensation under such schedule shall be in lieu of all other compensation in such cases;"

(b) The first proviso to section 8 of the Emergency Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352, 356), and the first proviso to section 16 of the Emergency Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809, 814), are repealed.

(c) This section shall apply to any case heretofore or hereafter coming within the purview of such Act of February 15, 1934, but no compensation shall, with respect to any case of injury or death occurring before the date of enactment of this Act, accrue or be increased by reason of the enactment of this section for any period prior to the first day of the first month following the date of enactment of this Act.

(d) The special schedule of compensation heretofore established pursuant to clause (a) of the second proviso to section 1 of such Act of February 15, 1934, shall remain in effect until superseded by a new schedule established pursuant to the amendments made by this section.

MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

SEC. 402. Effective as of July 25, 1947, paragraph a of section 2 of the Act approved July 25, 1947 (ch. 327, 61 Stat. 449, 451), is amended by striking out the semicolon at the end of the provision repealing the Act of July 1, 1943 (57 Stat. 371), and the Act of May 14, 1942 (56 Stat. 278), as amended, and inserting in lieu thereof a colon and the following proviso: "*Provided*, That section 11 of such Act of May 14, 1942, shall remain in effect to the extent specified in section 5 of such Act of July 1, 1943;"

MR. KELLEY. We have before us this morning Mr. Keating, who had a bill submitted in the Eightieth Congress. I believe the bill was acted on favorably by the committee; was it not, Mr. Keating?

MR. KEATING. That is right, Mr. Chairman.

MR. KELLEY. Will you come forward, Mr. Keating?

TESTIMONY OF HON. KENNETH B. KEATING, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF NEW YORK

Mr. KEATING. I hurried away, and I will take just a minute to separate the copies of this statement so as to give each member a copy of it.

Mr. KELLEY. Take your time.

What happened to the bill in the last Congress?

Mr. KEATING. It was reported favorably and never received floor action. I believe the action was unanimous, although I later heard—

Mr. KELLEY. It was, in the subcommittee, I know.

Mr. KEATING. I heard later in the full committee that one member did not vote. I do not know whether that is accurate or not. But it died without receiving floor action.

Mr. KELLEY. Very well; you may proceed with your statement.

Mr. KEATING. I will not go over the testimony in the form in which I have presented it to you for the record, because you presumably want to read it. I have given a history of what did happen to this bill last year. Then the same bill was introduced on the first day of this session.

Mr. KELLEY. That is H. R. 76?

Mr. KEATING. H. R. 76.

The committee will remember that President Truman this year in his message to Congress urged the adoption of some legislation along these lines. We are considerably behind most of the progressive States in our treatment of injured employees. There has been no change made in the rate of compensation for them since 1927; yet during that period, of course, there has been a substantial increase in pay, and most of the States have taken action to bring their compensation to injured employees in line with changed conditions.

Under the present law an injured employee receives a maximum of \$116.66, which originally was supposed to represent two-thirds of his maximum pay. According to pay scales today, it represents more nearly two-fifths of his pay.

This proposed bill raises the maximum from \$116.66 to \$225, and the minimum from \$58.33 under the present law to \$112.50. I understand that there has been a later suggestion introduced in the form of legislation to eliminate any ceiling on the compensation for an injured employee and to provide that he shall be paid 75 percent of whatever his compensation was.

Then this bill also makes certain changes in funeral benefits and benefits to widows and children of an employee who is killed. Then it meets this problem, which is a very serious deficiency in our existing law. This situation was brought to my attention by a constituent, which caused me first to become interested in this problem. He was a civilian employee of the Army working at the Aberdeen Proving Ground, who stayed on there during wartime at their request. Although he wanted to get into the service, he continued as a civilian employee. There was an explosion in which his right arm was so badly mangled that it had to be amputated.

He was a physicist, or a chemist, a man earning a very good rate of compensation, and he got paid \$116.66 a month for the time when he

was actually in the hospital, laid up during the amputation of his arm. But after that was over, an amputated arm was the type of thing which did not prevent him from going back to work. So in the matter of a month and a half or 2 months, he went back to work.

Now, under existing law, all he received for the terrible injury and the great loss and inconvenience all through his life suffered through losing an arm was \$150, whereas almost all of the progressive States have a provision that if an injury is suffered which is called "disability, partial in character but permanent in quality,"—that is, the loss of a member, an arm or a leg, or the loss of hearing or the loss of an eye—he gets a scheduled number of weeks' disability over a period of time. And this bill provides for that.

I have no pride of authorship in the schedule of disabilities or, indeed, in the wording of the bill. But I do think that this is a problem which should have our attention. Whether this bill or some other bill is favorably acted upon, certainly the essential outlines that I have given of some legislation do seem to me to warrant our support.

I have two matters that have come up and that have been brought to my attention by a number of people since I first introduced my original bill in April of 1947. There were several very tragic cases. One civilian employee, a young man, with both of his arms blown off, has been in my office. He is a young man who wanted to go into the Navy during the war, but he was such a valuable employee of the Army that although he was offered a commission in the Navy, the Army insisted on keeping him and dissuaded the Navy from taking him. He received this terrible injury, and he is in the same boat. Very properly we do everything in the world for our GI's and our injured soldiers and sailors, but this is certainly a blank spot in our legislation.

My constituent, for whom I offered to introduce a private bill, wrote back to me with what I am sure this committee will agree to be a commendable attitude. He said, "I do not think I am entitled to it. If it is not law and if everyone cannot have it who is in the same position I am, I do not want to ask any special favors."

I think you will agree that we seldom encounter that attitude.

But all of these people who have previously suffered injuries will not be covered by this legislation unless there is some retroactive feature placed in it.

Mr. KELLEY. You do not have a retroactive feature in your bill, however, do you?

Mr. KEATING. No, I do not. That is what I wanted to address myself to, because I do urge that some date be determined—and I realize the difficulty in determining such a date—so that it will cover any injury which has occurred since that time. I suppose under the policy which has been adopted by this and other committees, the door cannot be opened to any and all injuries to date, although I think that is debatable, and that some date must be determined.

I presented this same argument last time, and I believe that the committee considered the inclusion of a retroactive date but decided that because of the difficulty in determining the date they would leave that out.

I believe that there are several Federal employees who are appearing here today to present their own cases for your consideration, and I do urge some inclusion of a retroactive feature.

The other suggestion that I have to make arises in this way. Section 9 of the present law makes provision for medical, surgical, and hospital services to injured Government employees. These services may be rendered whether or not disability has arisen.

Section 8 of the act, however, gives an employee with a disability the option of using up his annual and sick leave to his credit, if any, before his disability compensation begins. I suggest the amendment of section 9 by the act by adding at the end thereof the following additional sentence:

Except as provided in section 8 of this act, the time spent by an employee in securing or receiving such services, appliances, or supplies shall not be deducted from any annual or sick leave to his credit.

There is more material in my written statement, Mr. Chairman, but I do not care to take the time of the committee to go over that unless there are some questions.

Mr. KELLEY. Without objection, it will be inserted in the record.

Mr. KEATING. Thank you.

(The prepared statement of Mr. Keating is as follows:)

STATEMENT OF HON. KENNETH B. KEATING, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF NEW YORK

Mr. Chairman and members of the committee, I appear in support of H. R. 76, introduced by me on the opening day of this session of Congress. This bill is identical with H. R. 3239, introduced by me in the Eightieth Congress and favorably reported—I believe unanimously—by the Committee on Education and Labor on April 15, 1948.

I understand that 1 week after I introduced H. R. 76 this year, on January 10, 1949, the chairman of your committee, the gentleman from Michigan, Mr. Lesinski, introduced H. R. 1236, identical in all respects with my bill, H. R. 76. Then, at a later time, the chairman introduced H. R. 3191 on March 3, 1949, which is somewhat more liberal in its provisions for injured employees than previous bills, and which is now recommended for passage by the Director of the Bureau of Employees' Compensation.

President Truman, it will be remembered, in his message to Congress this year, urged the adoption of legislation along these lines. Although I realize that under the rules of the game as it is played in such matters, any legislation favorably reported by your committee will be known as the Lesinski bill, nevertheless, I am very happy to have been the first to introduce the measure on this important subject which resulted in focusing attention on the need for revision of the law relating to benefits for injured Federal employees and their families.

It is my firm conviction that we have a duty and responsibility to those who are employed by the Government to extend to them every protection which would be afforded them in industry or private employment.

Many years ago it was recognized by the progressive States of this Nation, including among the first my own State of New York, that an employee injured in the course of his employment should be compensated without regard to any requirements that he must establish any fault or negligence on the part of his employer. That principle is now well accepted and can no longer be said to be open to challenge. In 1946 Congress adopted a Federal women's compensation law.

The first purpose of H. R. 76 is to readjust the rates of payment for employees of the Federal Government who receive injuries while in the performance of their duties. There has been no change made in the rate of compensation for injury since 1927. Yet, during that period, there has been a substantial increase in rates of pay. Under existing law, a Government employee injured in line of duty receives two-thirds of his pay, or a maximum of \$116.66, while he is off duty because of the injuries sustained. A payment of \$116.66 today does not represent two-thirds of pay but more closely represents two-fifths of pay.

H. R. 76 raises the maximum from \$116.66 to \$225 and the minimum from \$58.33 to \$112.50. It is my understanding that the latest suggestion is to eliminate any ceiling on compensation and provide that it shall be 75 percent of the employee's wage. However computed, certainly some such figures are more realistic than the present-day compensation, which is entirely inadequate.

The present Compensation Act provides that if death results from an injury sustained in the performance of duty within 6 years a cash payment of \$200 will be made for funeral and burial expenses. Under prevailing prices for a funeral this is merely a token payment. H. R. 76 provides that this amount shall be increased to \$400.

The bill also increases the benefits to widows and children from 35 to 50 percent in the case of widows and from 25 to 35 percent in the case of dependent children.

Numerous States in recent years have liberalized their compensation laws by providing for a larger percentage of salary payment for those injured on duty. H. R. 76 makes a similar provision, increasing the percentage rate from 66 $\frac{2}{3}$ to 75 percent. In private industry many firms and corporations now follow the practice of adding to the compensation payments so that the employees injured in the performance of duty receive full pay for the time they are off. Certainly to increase the percentage rate for Federal employees to 75 percent of their wage does not place them in any preferred category in this respect.

A further serious deficiency in the compensation law is rectified by H. R. 76. A case involving one of my constituents brought this inadequacy forcibly to my attention and caused the original introduction of legislation relating to this subject in the Eightieth Congress. This young man tried to enlist in the Navy during the war but was turned down because of a stomach condition. He then became director of a proving ground in a civilian capacity, and did outstanding service in the field of explosives in the development of the now famous proximity fuze.

In an explosion in late 1944 his hand was so badly injured that it had to be amputated. If he had been wearing a uniform at the time he would have become the beneficiary, and quite properly so, of many benefits from a grateful Nation. I was quite amazed to find, on checking into it, that under the Federal workmen's compensation law, no provision is made to compensate for their permanent disabilities civilian employees who receive injuries resulting in the loss of an arm, leg, hand, foot, eye, or loss of hearing.

Parenthetically, I may say that this constituent has, with rather unusual conscientiousness, declined my offer to introduce a private bill for his benefit.

This legislation seeks to correct this situation which I consider a deficiency in our obligation as a Nation to those who daily serve us faithfully as our employees. This bill provides a specified number of weeks' compensation in case of the loss or loss of use of an arm, leg, hand, foot, eye, finger or toe, or loss of hearing, to the extent of two-thirds of his monthly pay, subject to the present limitation of \$166.66 a month as follows:

Member lost:	<i>Number of weeks' compensation</i>
Arm -----	312
Leg -----	288
Hand -----	244
Foot -----	205
Eye -----	160
Thumb -----	75
First finger -----	46
Great toe -----	38
Second finger -----	30
Third finger -----	25
Toe other than great toe -----	16
Fourth finger lost -----	15
Loss of hearing, both ears -----	200
Loss of hearing, one ear -----	52

There are further provisions defining to what extent loss of parts of an arm, leg, or digit shall be compensated, how far loss of vision shall be equivalent to the loss of the eye itself, that loss of both hands, arms, feet, legs, eyes, or any two, shall constitute permanent total disability in the absence of conclusive proof to the contrary, and that any such compensation payable to an employee who dies after an award, shall be paid to his widow or children. It is also provided

that an injured employee, instead of receiving the benefits under this bill, may make an election to receive compensation for loss of wage-earning capacity under the existing provisions of the law, if he should determine that he is better off to pursue that remedy.

The suggested compensation in this bill is proposed after considerable study of the question, but with no particular pride of authorship. It may be that amendments should be made to change many of the provisions of this rather comprehensive legislation. I am confident, however, that it is a problem to which we should direct our early attention. The essential outlines of such legislation warrant overwhelming support.

Mr. KELLEY. Do you have any questions, Mr. Jacobs?

Mr. JACOBS. Yes.

Mr. Keating, was there any time considered in regard to the retroactive feature that was under consideration?

Mr. KEATING. In my presentation at the last Congress, it was only the subject of general discussion such as we have had here. I understand, and perhaps some of the members who served on the committee then could enlighten you further, that in executive session there was a very extended discussion of this retroactive feature, and the feeling was arrived at that that it was so difficult to determine a date, and that you would also prejudice those who came before that date, that they just would not try to do it, and there was a policy in all committees when such legislation was adopted not to have it completely retroactive to cover all previous cases.

I have a little difficulty in reconciling that with essential fairness and justice. If this is something which is right, I cannot be convinced that it should not extend to all employees who have suffered this type of injury.

There may be a difference between the application of that part of the bill which raises the monthly compensation and the application of that which has to do with these injuries that I have mentioned where there is loss of a member. Certainly as to the latter, if a man lost his arm in 1940 and never was compensated except under the existing law, and if he should be compensated for the permanent impairment of his earning capacity and the incidental losses which he must suffer during his entire life, it is difficult for me to understand why that should not apply to him. And I would urge that the committee, when it gets ready to consider the bill in detail, give very serious thought to that matter.

Mr. JACOBS. In other words, you feel that if a man were injured on the job—it makes no difference when he was injured—he should be compensated, and that the remoteness of the time of injury may present difficulties whereby he may not be able to prove the injury, but once it is established, he should be compensated?

Mr. KEATING. That is correct. I believe that it is the administration of the matter which raises the difficulties. And, of course, you will want to hear those who are charged with the administration. I am not sure, but I believe that they opposed the inclusion of the retroactive feature before. I do not want to say that with positiveness, and you will want to hear from them. But it seems to me that those administrative hurdles can be surmounted, and if they can, certainly fairness and justice would require that they be treated the same way as the man who is injured the day after the bill was passed.

Mr. JACOBS. For example, I have the case of a neighbor, Mr. Robert E. Johnson, of Indianapolis, Ind., who suffered the loss of an eye in

March of 1940 while building the Owensboro, Ky., bridge. He was an engineer. Now, the Government has conceded the liability insofar as doctors' bills are concerned. There was never any question but that he lost that eye in the line of duty. If we owe the man, I cannot see why we ought not to pay him.

Mr. SMITH. Mr. Jacobs, will you yield there?

Mr. JACOBS. I yield.

Mr. SMITH. The trouble does not come about from scheduled injuries, like the loss of an eye, or the loss of a hand, or a foot, and things like that. That does not present any problem. But it is the type of man who says he has a bad back, the malingering type of individual. When we open this, that is what we get into.

Mr. JACOBS. I wonder if we could not make it so that it includes only those people. I think you said that, did you not, Mr. Keating, limiting it to the loss of a member, or something like that?

Mr. KEATING. Yes. I might say to the gentleman from Kansas that this is limited to the type of injury which does not easily lend itself to malingering. These are the items: Loss of an arm, loss of a leg, hand, foot, eye, thumb, fingers, toe, and then loss of sight and loss of hearing. Those last two, perhaps, present some difficulties. But except for the last two, it would be pretty hard to malingering, I think.

Mr. SMITH. What you are talking about is classed as scheduled injuries in all compensation cases.

Mr. KEATING. Yes.

Mr. SMITH. Now, they are objective injuries that anybody can see. That is an objective thing. When you get into the situation of a man's back, where he has some complaint that nobody can see, that is a subjective thing, and that is where we get into trouble.

Mr. KEATING. Yes, I get your point. And that is in line with the suggestion that I made a few moments ago, that there may well be a distinction between making retroactive the increased compensation on the one hand and these definite losses of members on the other hand. It may be that the committee will determine that it is not administratively feasible to make retroactive the increase in compensation, but that it is to make retroactive compensation for the type of injury that I have been discussing.

Mr. SMITH. Objective?

Mr. KEATING. Objective, yes.

Mr. SMITH. I see.

Mr. JACOBS. That is all. I think we should, as a matter of fact.

Mr. KELLEY. Mr. Bailey, have you any questions?

Mr. BAILEY. Mr. Keating, am I to understand that there has been no revision of this basic act of 1916 up to the present time?

Mr. KEATING. Not since 1927.

Mr. BAILEY. What is the nature of that revision?

Mr. KEATING. I cannot tell you in detail. There was, in 1927, some change in the rate of compensation upward, but it has not been reviewed or reconsidered in 22 years.

The clerk of the committee could undoubtedly tell you just what took place in 1927. I am unable to do so.

Mr. BAILEY. I was wondering just how definite you are in determining what constitutes a civilian employee of the Government. Does the bill make any provision for that? Is there any elimination on how long they should have worked or anything like that?

MR. KEATING. No. If he is a civilian employee at the time he is injured, then he would have the benefits of the law.

MR. BAILEY. Mr. Chairman, I would like at this time to relate just a little incident that came up in my district a few days ago. I am wondering whether this bill would be broad enough to cover it.

This young man back in 1942 was attending one of the universities down in Tennessee and he was a member of the ROTC. The Government came along during the last semester of his school term and made a proposition to them that they would come over and start their basic training, and their commissions would be issued to them at the time of their graduation.

This young man reported, I think, to Camp McClelland in Alabama. A few weeks after he reported to camp, he developed infection of an ingrown toenail, and gangrene set in, and they had to take him over to the Lawson General Hospital at Atlanta and take off his leg.

The Government has disclaimed any responsibility on the ground that he was not in the armed services, despite the fact that he drew three checks while he was in training in camp. I am wondering if he qualifies as a civilian employee of the Government.

MR. KEATING. I would think offhand, as I imagine your mind is working, that he was a member of the armed services. I do not follow—

MR. BAILEY. They say not. I have special legislation prepared to try to declare him a member of the armed services as of the day he reported to camp. It looks as though it is going to take special legislation. I was wondering if he could qualify under legislation like this.

MR. KEATING. I am afraid not.

MR. BAILEY. If he was not in the armed services, he must have been a civilian employee.

MR. KEATING. I would think so. He was being paid. On the other hand, it would be a different agency passing on that, and I fear that the compensation people would say he was in the armed services. That is what you sometimes encounter, of course. I do not know. It certainly impresses me—

MR. JACOBS. Would you yield, Mr. Bailey?

MR. BAILEY. Surely.

MR. JACOBS. Do you know whether this bill covers temporary employees, too?

MR. KEATING. Yes, it covers any employees.

MR. JACOBS. Anyone who is working for the Government?

MR. KEATING. Yes.

MR. BAILEY. That is all, Mr. Chairman.

MR. KELLEY. Mr. Perkins?

MR. PERKINS. Does it cover any employees working in any department of the Government?

MR. KEATING. Yes, any civilian employee.

MR. KELLEY. Mr. Burke?

MR. BURKE. I do not have a great deal of experience in Federal compensation. In fact, I know nothing about Federal compensation. I do have some experience with our own State employees' compensation, the Workmen's Compensation Act, and I was greatly interested in the questioning that General Smith was giving there.

Do I understand that permanent disability cannot be allowed unless there is some loss of member?

Mr. KEATING. No. Under existing laws, total disability is compensated for no matter how long it lasts, and also partial disability in this way, that a person is entitled to receive two-thirds of the difference between his pay and what he was earning.

Mr. BURKE. In other words, his impairment?

Mr. KEATING. Two-thirds of his impairment. This bill provides that in the limited class of cases where he loses an arm, leg, or other member, then he shall be paid three-quarters of his total compensation for a scheduled number of weeks, as is probably the law in your State.

Mr. BURKE. Ohio, yes.

Mr. KEATING. In your State compensation, that is. My bill does have in it a clause toward the end that if, as might happen in a few cases, three-quarters of the difference between his total compensation and what he was earning for the entire period of partial disability might be more than three-quarters of his compensation for the scheduled number of weeks—that would not often happen, but it could happen—he would, in that event, 6 months after his injury, within which time he would have had an opportunity to determine it, have the right to elect in which way he would take compensation.

Mr. BURKE. In our State, we have five types of compensation. There is temporary total, which is that compensation paid while the individual is completely incapacitated because of his injury in the hospital or as the case might be. The second is temporary partial, which is when he is able to do light work, and he is given an impairment. The third is permanent partial, which is compensation for the loss of a member, or the commission is allowed to proclaim a percentage disability after study of the case and award permanent partial. In that, of course, permanent total, which is for complete disability. And then, of course, final death claim.

Is there anything parallel to that in this?

Mr. KEATING. Not strictly parallel. At present, we have nothing similar to what you call permanent partial, which is the loss of a member. There is no such thing in the present law. There is permanent partial where he can show that he permanently cannot earn as much money as he did before. There can be cases of indefinite partial, at least, if not permanent.

Mr. BURKE. I see.

Mr. KEATING. This bill is designed, in that part of it, to meet the class of cases which are not covered at all under present Federal workmen's compensation laws, and it describes those injuries as partial in character but permanent in quality, and those are the loss of a member. There is nothing in existing law to compensate for that.

Mr. BURKE. In other words, for instance, if this disaster that happened in one of the post offices in Kentucky, where, I believe, the individual had a hand blown off and complete loss of sight, certainly that would be, if not permanent total disability, permanent partial?

Mr. KEATING. It would. It could be permanent total. It is possible. For instance, the man lost his sight. On the other hand, some blind people are able to make a wonderful readjustment and make something out of their lives. Now, if that man got back to an earning capacity equal to what he had before, he would get nothing, whereas any way you look at it, that fellow has had a pretty serious impair-

ment of his faculties all through life regardless of what he is able to earn.

Mr. BURKE. But he would not receive any compensation for the loss of member as such?

Mr. KEATING. As such, that is it. And that is what this bill is designed to give him. That is right.

Mr. BURKE. That is all.

Mr. KELLEY. Mr. Wier?

Mr. WIER. I presume Mr. Keating is just introducing the bill here and going over it roughly. And I gather here that H. R. 3191 is a combination of three or four bills along the same problem. Is that it?

Mr. KEATING. That is right. H. R. 3191 is the latest bill introduced—in March of this year.

Mr. WIER. I read here that this is a combination of about three bills. The only thing that I might be interested in is the answer that we are seeking, and that is that I presume the administrator of this act, or this agency, will point out the differentials between what is now the present law and amounts and policies as against the new bill. That is the information that I think will answer our questions—some of them, at least.

You have a policy now, but it is not up to the present needs. That is the question.

Mr. KEATING. Yes. You will, of course, want to hear him.

Mr. KELLEY. Mr. Smith?

Mr. SMITH. Mr. Keating, when I came in, you were talking about no ceiling on the compensation rate. What did you mean by "no ceiling on the compensation rate"?

Mr. KEATING. My bill does have a ceiling. I think that almost all of the bills in the States have ceilings. I was told, although I have not reviewed it yet, that the latest bill put in on this subject did away with any ceiling. In other words, a man would get 75 percent of his compensation, if that is what the bill provides. Of course, if you came to a high salaried man, that would run pretty high. I would imagine that the committee would feel that some ceiling should be inserted, but I leave that to your own discretion. And I may be misinforming you about this latest bill. It is entirely rumor, so far as I am concerned.

Mr. SMITH. Is Mr. McCauley going to testify this morning?

Mr. KELLEY. I think so; yes.

Mr. SMITH. That is all.

Mr. KELLEY. Mr. Werdel?

Mr. WERDEL. Mr. Keating, under these bills, how is the coverage, or the risk of this payment, carried? Is there a separate insurance fund of some kind or does the Government take out insurance and pay for the risk? How is that handled?

Mr. KEATING. I do not think the Government takes any deduction from pay.

Mr. WERDEL. I do not mean that. I mean, if this is expanded, there is a definite increase in risk of loss.

Mr. KEATING. Yes.

Mr. WERDEL. Is that risk assumed by the Government agencies which employ these individuals?

Mr. KEATING. Yes. I was told last year that my bill, of which this is an exact copy, was estimated to cost the Government \$4,000,000 a year.

Mr. WERDEL. And then in the event of suits based upon these claimed losses by individual employees, who will defend those actions? The Attorney General's office?

Mr. KEATING. I believe you had better ask Mr. McCauley who handles that. I am not entirely familiar with the way that operates.

Mr. WERDEL. I think it is important, for the reason that in many of our States they have set up State compensation insurance funds, and they have allowed independent insurances companies to compete, which, of course, is all right in connection with the States. But the applicant, if there is no doubt at all in his claim, is given what is commonly known as the "rest cure." Then any attorney fees which he can receive in connection with the fight must come out of what he is to get. The result is that usually those people are very poorly represented.

Mr. KEATING. That is right. The same is true in my State.

Mr. WERDEL. I think it is generally true of all the States except one or two that allow an additional amount to be paid for attorney fees in connection with the same risk, and it is figured in.

Now, when you get around to these items like subjective symptoms, of course, those things are always difficult to handle in any jurisdiction, and when you get to situations like amputations because of infection, you find the defense coming up with the fact that the person had eczema the year before, and that sort of thing.

Mr. KEATING. That is right.

Mr. WERDEL. And you have a long fight that the man cannot finance. I think that is one of the things that we ought to give thought to if we are going to amend the law. There is no point in having it appear that a man has provision made for representation and then not have it there, as a practical matter.

Mr. KEATING. I agree that that is something that you ought to canvass if you are going into a complete revision of the workmen's compensation law.

Mr. WERDEL. That is all.

Mr. BURKE. Would the gentleman yield for a question?

Mr. WERDEL. Yes.

Mr. BURKE. I gave quite a bit of thought to the point that you raised. Do you believe that if we set up a risk-rating sort of thing within the Departments on an actuarial basis, it might, among other benefits, provide a safety incentive, too?

Mr. WERDEL. I think so. What I am getting at is that in these actions, the board which hears them and rates the injury and the extent of the injury certainly can determine what is a reasonable attorney fee.

Mr. BURKE. I would not be worried so much about the attorney phase of your statement, but in the beginning you said how it is charged out—whether a system of charge-outs on an actuarial basis against the Departments might not provide a—

Mr. WERDEL. Of course, if the Departments take the risk, Mr. Burke, we are not so much concerned with whether the amount that we set up for it is actuarially sound as we would be if we were to set up an insurance fund to take care of it. We would probably wind up taking care of it in deficiency bills.

Mr. BURKE. That is what I meant. The insurance fund would have to be built up through a charge-out against the Departments on an ac-

tuarial basis. That is why I was rather intrigued with the beginning of your statement.

Mr. KELLEY. Mr. Velde?

Mr. VELDE. No questions.

Mr. PERKINS. Mr. Chairman, I would like to ask a couple of questions, if you do not mind.

Mr. KELLEY. The gentleman has taken his turn.

Mr. PERKINS. I wish to ask them inasmuch as I was not here when the hearings were commenced.

Mr. KELLEY. Very well.

Mr. PERKINS. The bill states that this act is to provide compensation for the employees of the United States suffering injuries while in the performance of their duties not already covered, such as civilian employees.

Now, let us take, for instance, postal employees who are injured in

Mr. KEATING. A month. They would receive two-thirds of their compensation? Does it increase it?

Mr. KEATING. Yes. Postal employees would be one of the classes of employees covered by the bill, and, No. 1, it increases the percentage of compensation for total disability from two-thirds to three-quarters of what they were getting; No. 2, it increases the minimum from \$58.33 to \$112.50, and the maximum from \$116.66 to \$225.

Mr. PERKINS. Yes. Under the old bill, were postal employees covered by compensation?

Mr. KEATING. Yes.

Mr. PERKINS. They are now under the present law, I mean?

Mr. KEATING. Yes.

Mr. PERKINS. In the event of a total disability, what would be the amount of money they would receive, assuming they had a total disability for the remainder of their lives?

Mr. KEATING. The top would be \$116.66.

Mr. PERKINS. A month?

Mr. KEATING. A month. They would receive two-thirds of their compensation with a top limit of \$116.66, under existing law.

Mr. PERKINS. In other words, in the instance that happened in Bowling Green, Ky., the injured employee there would only get \$116.66 a month?

Mr. KEATING. That is right. Under this, he would get \$225, assuming he was getting near the top grade of pay in the post office.

Mr. PERKINS. That is all.

Mr. KELLEY. Thank you very much, Mr. Keating.

Mr. KEATING. Thank you, Mr. Chairman and members of the committee. I appreciate this very courteous hearing.

Mr. KELLEY. Mr. Kingsley.

Mr. Kingsley, you have Mr. Belsley, Mr. McCauley, and Mr. Boote with you, do you not?

Mr. KINGSLEY. Yes. Shall I have them come up now?

Mr. KELLEY. Yes, please.

Before we begin, I want to say that the House is going into session at 11 o'clock, and when they begin to read the bill, we will have to adjourn, because we cannot continue to hold our hearings while the House is reading a bill for amendment.

If you are ready, we will listen to you, Mr. Kingsley.

TESTIMONY OF J. DONALD KINGSLEY, ACTING ADMINISTRATOR,
FEDERAL SECURITY AGENCY, ACCOMPANIED BY G. LYLE
BELSLEY, COMMISSIONER FOR SPECIAL SERVICES; WILLIAM
McCAULEY, DIRECTOR, BUREAU OF EMPLOYEES' COMPENSATION;
AND WARD E. BOOTE, CHIEF COUNSEL, BUREAU OF EMPLOYEES'
COMPENSATION

MR. KINGSLEY. Mr. Chairman and gentlemen of the committee, I am very happy to have this opportunity to appear before you in support of H. R. 3191.

MR. WIER. Before you go any further, let me ask, are these the administrators of the act, or are these employees, or what?

MR. KINGSLEY. Mr. Chairman, I am the Acting Administrator of the Federal Security Agency.

MR. BELSLEY is the Commissioner for Special Services of the Federal Security Agency, under whose jurisdiction the Bureau of Employees' Compensation falls.

MR. McCauley is Director of the Bureau.

MR. WIER. Thank you.

MR. KELLEY. And Mr. Boote is the counsel?

MR. KINGSLEY. Mr. Boote is the assistant general counsel who deals with the legal aspects of this problem.

The bill before your committee is one of the most important measures affecting Federal employees to come before the Congress in recent years. It concerns the security and well-being of each and every Federal worker and his family. It is a belated recognition of the fact that time marches on for the halt, the lame, and the blind, as well as for those who escape the disability hazards of employment and enjoy regularity of income.

The Federal Government pioneered the workmen's compensation principle in this country. The first act passed in the United States was the Federal Act of 1908, a law of limited scope. The States followed suit, and today there are workmen's compensation laws in every State.

In 1916, the Congress gave to Federal workers their present law, which in general is similar to the pattern of State laws. But since 1916, the Federal Employees' Compensation Act has received very little attention by Congress, probably due to the wisdom and foresight of the original draftsmen.

There were, as you know, some adjustments in schedules in 1927. These draftsmen, however, could hardly have been expected to foresee all future economic and other changes. They did not have the benefit of the many years of administrative experience from 1916 to the present by which to improve on their work. Today we can draw upon that experience.

We find now, and this committee has heretofore discovered, that the Compensation Act lags behind the times, too far behind. This is particularly true with respect to the amount of benefit payments. Ten years after the original act went into effect, the Congress found it necessary to catch up with the then existent time lag by providing increased benefits to meet increased living costs. That was in 1927. But 22 years have elapsed since 1927, and employees are still tied to

the 22-year old compensation rates, notwithstanding the great upswing of the price level, living costs, and wages since that time.

The effect of this state of affairs upon the disabled and the dependents of deceased workers is almost disastrous. Under prevailing economic conditions, our Federal employees' compensation payments are at such low levels that the act has lost its original effectiveness. Great economic hardship has been imposed upon our disabled workers or their dependent families, leaving to many of them the only alternative of relying on outside help or upon charity.

Two examples may serve to illustrate this point. Let us assume the case of a scientist whose annual salary is \$8,400, and who has been permanently blinded and crippled by a laboratory explosion. He would receive as maximum compensation under the present law of only \$1,400 a year. This is just one-sixth of his pay, not enough for slum-tenement existence for his family.

The average salary of all Government employees is about \$2,980 a year. A totally disabled employee in the average salary brackets would also receive \$1,400 a year, or \$180 a year less than half of his salary. These people are the victims of employment hazards, and they deserve a better measure of justice from their Government in the role of employer. This bill would remedy their plight. It would restore them to about the same relative position with respect to the real value of money compensation which was intended by the Congress when it enacted the 1916 legislation.

At the same time, the bill would remove the 22-year old artificial ceiling on monthly compensation. This ceiling of \$116 a month is now completely out of step with reality. The bill before you would remove the ceiling, and permit automatic adjustments to meet any future changes of prices, living costs, and wages.

The removal of the ceiling would cost a surprisingly small additional amount. This is due both to the relatively few higher paid employees and to the fact that this group has a much smaller accident frequency rate. If we compare the one-sixth compensation pay of our injured scientist in our previous example with the approximate one-half compensation pay of our average employee under the present law, it is apparent that equal justice cannot be accorded under present conditions.

We have sought to avoid the time lags in future revisions. Such revisions can be expected only after the lapse of many years. The hardships which occur during such time lags can easily be avoided by more flexible provisions, such as those included in this bill, without any ceiling provisions. The bill also incorporates a frequently recognized principle that a disabled worker with a family requires more compensation than one with no dependents. In such cases, the bill would augment the 66 $\frac{2}{3}$ percent compensation for total disability by 8 $\frac{1}{3}$ percent, or a total of 75 percent in the case of a worker with one or more dependents.

Another principal feature of the bill is a schedule of compensation for the loss, or the loss of use, of members of the body, such as an arm, leg, hand, or eye. As far as I am aware, the Federal Act is the only act in this country which now fails to provide such a schedule or its equivalent.

It is often difficult to ascertain the extent to which loss of minor bodily members and even major ones affect an employee's capacity to

earn wages. When employees return to work with loss of impaired members, but without apparent wage loss, they cannot be paid for their physical losses under the present law. For example, employees working at machines can often carry on despite the loss of fingers. But when they find that the law gives them nothing for their losses, there is understandable dissatisfaction and resentment.

By comparison with their fellow workers in private employment, they are left with a feeling of unjust treatment. This bill would remedy the situation by scheduling all injuries to members of the body with measured justice applicable to all employees similarly injured.

In addition, provision is made for affording a greater measure of protection against loss of security for those suffering major member losses where subsequent wage-earning capacity has also been demonstrably reduced. This is coupled with a provision for the encouragement of vocational rehabilitation by such persons.

The death-benefit provisions would also be liberalized along parallel lines. Minor adjustments have been made in order to give a decedent's wife and children more substantial protection. The funeral-expense allowance would be increased more nearly to permit decent burial. That is from \$200 in the present bill to \$400, and on the formula giving a little more protection to widows with minor children, the widow would get 45 percent if there were no other dependents, or if there are dependents, 40 percent plus 15 percent for each dependent up to a total of 75 percent.

Another feature would broaden the coverage of the compensation act to include officers of the Government. The present law covers only employees. The line between officers and employees is frequently so obscure as to make just decisions possible. The inclusion of officers has long been urged. It is admissible to most employing establishments of the Government. Included within this bill as officers are Members of Congress and persons rendering personal service recognized under statutory authority even though they serve without pay. In addition, the other major groups which would be included in this bill but are not now included would be the United States marshals, attorneys, first-, second-, and third-class postmasters, and, I believe, the Foreign Service.

In view of the fact that officers of the Government must often travel to the far corners of the earth, their positions frequently are relatively hazardous. To protect them by this act is only fair and just. The bill contains several technical amendments which may be summarized as follows: First, to make the compensation remedy exclusive and thus to avoid the needless threat of litigation under the Tort Claims Act. At the present time, an injured employee has the choice of suing the Government or coming in under this present act; two, to make computations more accurate and fair by spelling out the method of arriving at the monthly pay of employees for the purpose of determining benefits. The provisions in this respect are similar to those in the Longshoremen's Act, the New York State law, and a number of other places. They are technical, and I will not go into them.

Third, similarly to spell out the proper factors to be used in determining the loss of wage-earning capacity.

Some odds and ends are also included in the bill. They are minor, but very necessary. These have to do largely with the handling of overpayments, the extensions of time limits in certain cases, making the amendments retroactive on a selective basis, taking care of certain total disability and death cases left over from the depression days, and correcting an oversight which occurred when certain war powers were terminated.

Of these, perhaps the most important are the provisions which would make it possible to pay future benefits in the cases of persons who became permanently disabled or who died during the war period, but who were not within the coverage of the act. The bill does not forget the people on the rolls whose compensation would not be affected by these amendments because of their very low pay rates when injured. Their situation has been specifically provided also by this bill.

We believe that the bill will effectively accomplish the purposes intended. Its inherent fairness and the urgency of its enactment will no doubt strongly appeal to this committee.

As I have indicated, Mr. Belsley, the Commissioner for Special Services, and Mr. McCauley are here with me, and will be very happy to put themselves at the disposal of the committee, Mr. Chairman, for any specific or technical problems, and I am happy to answer any questions that I can within my competence.

Thank you very much.

Mr. KELLEY. Mr. Bailey? You are recognized for 10 minutes.

Mr. BAILEY. Speaking of your odds and ends amendment, you used the expression there "retroactive on a selective basis." Just what do you mean by that?

Mr. KINGSLEY. This bill, as I understand it, Congressman, has a provision which picks out a specific group of people.

I think, perhaps, Mr. Belsley should answer that in detail.

Mr. BELSLEY. This applies largely to those who served without compensation during the war period and those who therefore were not within the scope of existing legislation, but who would be brought within the scope of the new legislation as proposed in this bill.

Mr. BAILEY. Might I ask you this question: Is there a retroactive provision in this legislation?

Mr. BELSLEY. You mean, to those now on the rolls?

Mr. BAILEY. In cases that happened over the past 6, 8, or 10 years?

Mr. KINGSLEY. Not in general, no.

Mr. BELSLEY. No. It does, however, cover those who are now on the rolls, in order to bring their compensation a littler more nearly into line with existing conditions. But it does not apply retroactively to cases that have been closed or that have not been brought within the scope of the previous act.

Mr. BAILEY. Would that be desirable?

Mr. KINGSLEY. I think we would have no objection to that. In terms of the administrative problem, there is some difficulty. It would depend in large part on how it was spelled out, and the cut-off point. The selection of the date is a difficult one, because whatever cut-off point you choose, you still have inequities on the other side of the date. But I believe we would have no objection if the committee wished to include a properly spelled out retroactive feature.

Mr. BAILEY. What about the ceiling on payments? For instance, take your scientist at \$8,400. This bill would provide two-thirds of his compensation?

Mr. KINGSLEY. This bill provides two-thirds if he has no dependents, if he is single, or 75 percent if he has dependents. There is some recognition in this bill of the family responsibility situation which does not exist in the present law.

Mr. BAILEY. Would you think it fair that there would be a limitation on the total amount that anyone could draw in the way of compensation?

Mr. KINGSLEY. We think not.

Mr. BELSLEY. We think not.

Mr. KINGSLEY. We see no reason why there should be any ceiling. There are a number of advantages in having it on a percentage basis. It takes care automatically of adjustments in the salary levels upwards or downwards. It maintains a fair relativity as between different classes of workers and living standards that they have established on the basis of their earnings. We would not favor the continuance of the ceiling, or of any outside ceiling.

Mr. BAILEY. One more question. Have you computed the probable cost to the Government of making these adjustments?

Mr. KINGSLEY. Yes, sir. The total cost would be \$6,915,000—something like that—according to our estimate. I believe that we can present a break-down to you. We do have a break-down by items, have we not, Mr. Belsley?

Mr. BELSLEY. Yes; there is an estimate by items. That is a broken-down estimate of the total cost which, as Mr. Kingsley says, is \$6,915,000—almost \$7,000,000.

Mr. BAILEY. Are those figures in such shape that they could be entered into the record.

Mr. BELSLEY. Yes.

Mr. BAILEY. At this point, I would like to request that the table of prospective costs be included in the record.

Mr. KELLEY. Without objection, it will be inserted in the record at this point.

(The table referred to is as follows:)

Tentative approximation of anticipated increase in annual cost of disability and death compensation under H. R. 3191

Elimination of 3-day waiting period.....	\$110, 000
Increase in minimum wage from \$87.50 to \$150.....	685, 000
Removal of maximum wage limitation of \$175.....	2, 150, 000
Increase in disability rate for dependents.....	770, 000
Increase in wage base in cases prior to 1946.....	880, 000
Change in rate of death benefits to widows and children.....	1, 430, 000
Schedule for permanent disabilities.....	250, 000
Increase in attendants' allowance.....	20, 000
Rehabilitation subsistence allowance.....	60, 000
Other rehabilitation expense.....	100, 000
Increase in benefits in relief cases.....	460, 000

Total anticipated increase.....	6, 915, 000
Approximate anticipated increase chargeable to new cases.....	1, 790, 000

Approximate anticipated increase chargeable to old cases---- 5, 125, 000

Mr. BAILEY. I believe that is all.

Mr. KELLEY. Mr. Jacobs?

Mr. JACOBS. This almost \$7,000,000 is the increase this bill will provide?

Mr. KINGSLEY. Yes, sir.

Mr. JACOBS. Coming to the question of retroactive application of this act, I am wondering whether or not there is any basis, other than the difficulty of administration, why it should not be retroactive to anyone who is injured, if it be established——

Mr. PERKINS. Within a certain period of time.

Mr. JACOBS. No; I am not talking about within a certain period of time. If it has been determined that a man was injured while working for the Government, why should not the Government pay him?

Mr. KINGSLEY. Well, Congressman, this act is retroactive as of to-day for people on the rolls; the new schedule would apply to them.

It is not retroactive for schedules affecting loss of members. It is not retroactive in the sense of increasing the benefits they have been paid in the past.

Mr. JACOBS. I have in mind the case of a man, particularly, who may have been hurt while working for the Government. I know of a case where a man lost an eye through an injury received in 1940 while he was working on the Owensboro Bridge. Now, the Government has paid his medical bills, but he has not received any compensation, and I do not know why. I thought that it might have been because he was a temporary employee; would that be it?

Mr. BELSLEY. No.

Mr. KINGSLEY. That would not be it.

Mr. BELSLEY. No, Congressmen, that would not be it. Of course, we are not familiar with the particular case that you have in mind, but the schedule was not in effect, therefore he could not have gotten it under the schedule. He would have gotten payment for his medical care. If that had been determined to be something that would interfere with his earnings and would prevent him from working or earning, he would have gotten compensation; but, apparently, it was determined that that was not the case.

Mr. JACOBS. But the schedule here would not be retroactive to a man injured that way?

Mr. BELSLEY. Not as provided in this bill.

Mr. KINGSLEY. Except within 1 year, then it covers.

Mr. JACOBS. Well, what do you think about that?

Mr. KINGSLEY. There is no reason, except as an administrative problem, why it should not go back to 5 years.

Mr. JACOBS. Why 5 years—why do you pick that figure? Of course, as was said a while ago, you might get into some of these alleged injuries where there is a weak back, or things such as that, which are pretty hard to determine, but it is different with the case of an eye that has been lost. It might be pretty hard to determine if a fellow has a weak back, but if he has lost his eye, that eye is out.

Mr. KINGSLEY. Of course, the difficulties increase, as you go backward. The difficulties of establishing how the accident occurred increase as the records get lost, and so on.

Mr. JACOBS. That is right. So, it would be really a matter of administrative difficulties?

Mr. KINGSLEY. That is right.

Mr. JACOBS. How do you feel about making it retroactive without limit?

Mr. KINGSLEY. Personally, although I could be corrected by the people who directly run this program, I do not see any insurmountable difficulties. Personally I see no reason why it could not be done; secondly, I think that in terms of equity, there is much reason why it should be done.

Mr. BELSLEY. There are several points that might be raised in objection, and some of them have already been stated. One is the question of setting a particular date. How far back would you go? That is one question.

The next problem is one of the difficulty of developing a case from the old records, as Mr. Kingsley has just stated.

The third is that the easiest point to make retroactive is the schedule, whereas other injuries, such as those to the back, and so forth, are far more difficult to appraise and come to some conclusion about.

The fourth one is that if the schedule is made retroactive, whereas certain other provisions are not, you have discriminated against those that have the more complicated injuries and those whose cases, therefore, are harder to determine, and you have assisted those whose cases are more easily settled. Whether you want to do that is entirely up to you.

However, we think that too much stress cannot be placed on the administrative burden that is involved in this. The act itself, without making anything retroactive, will add to the administrative burden and expense of the Bureau, and making it retroactive would create a tremendous additional job. It could be done, but it would require a more adequate staff in order to bring it up to date.

Mr. JACOBS. And, of course, there are these other problems, such as the one that Mr. Werdel brought up with reference to claims and the prosecution of claims. I am not sure but before we get through we may require compensation for counsel fees, if a man had to prosecute.

Of course, as to the date, if a man's arm is off, he does not grow another one; his position is no different 10 years later; he still has no arm. I feel we cannot spend our money in any better way than paying what we owe, and certainly we owe a man if he has lost a member doing work for the Government. That is all.

Mr. KELLEY. Mr. Perkins.

Mr. PERKINS. If I understand this correctly, you stated that the provisions of the act as now written are retroactive, insofar as all employees who are now on the pay roll?

Mr. BELSLEY. Yes, sir.

Mr. KINGSLEY. That is right; the new schedules in here would apply to all people now on the rolls.

Mr. PERKINS. And the 1-year retroactive limitation would not interfere with that?

Mr. BELSLEY. No.

Mr. PERKINS. I mean, as to the men who are now on the pay roll.

Mr. BELSLEY. No.

Mr. KINGSLEY. It will not.

Mr. BELSLEY. The cases of those who are now on the pay roll would be reconsidered in light of the terms of the proposed act. They are all brought in under the new act.

Mr. PERKINS. I personally feel—

Mr. BELSLEY. Excuse me, if I could make myself clear, so there will be no misunderstanding.

Mr. PERKINS. Go ahead.

Mr. BELSLEY. There is a formula provided in the act to apply to those now on the rolls.

Mr. PERKINS. I see. That is all.

Mr. KELLEY. Mr. Burke.

Mr. BURKE. When I was questioning Mr. Keating, and I do not know whether you heard it or not, I was trying to determine—I have not read the act as yet—I was trying to find out, according to the bill, if it provides for the determination of a percentage disability, outside of the loss of members.

I recognize the question that General Smith raises, about possible malingering and about back cases and hernias, which cases he states he found to be the most troublesome ones.

However, certainly there must be cases where there is a displaced disc in the spine, and hernias that are the direct result of employment, where the State commissions are authorized by law to make a determination of the percentage of disability according to or equal to some sort of loss-of-member provisions in the schedule. Is that provided for in here?

Mr. KINGSLEY. Yes.

Mr. BELSLEY. Yes.

Mr. KINGSLEY. There are two things, as I understand the bill, in here, Congressman.

First of all, there is the schedule for loss of members. Secondly, there is compensation for loss of earning capacity. In the case of somebody who lost an arm, then the schedule for loss of an arm will apply for the whole period. Monthly payments for, I think, 6 years for an arm, will be paid. At the end of that time, a determination would be made by the Bureau as to further impairment, as to loss of wages, and further compensation could then be allowed, over and above what was paid for the loss of the member.

Mr. BURKE. What I was thinking about is some disability other than loss of a member.

Mr. BELSLEY. The bill is substantially, with modifications in the amount of compensation to be received, similar to the existing legislation in that regard. One who is injured has his case reviewed; and, as he is treated and recovers and so forth, a determination is made of his earning capacity as of that date.

The bill provides a basic compensation for him of two-thirds of the difference between what he was earning at the time of injury and what his present earning capacity is; and, when he has one or more dependents, that is increased by $8\frac{1}{3}$ percent, up to a maximum of 75 percent. So, he is covered.

Mr. BURKE. The determination, then, can be made by the Bureau?

Mr. BELSLEY. Oh, yes.

Mr. KINGSLEY. That is right.

Mr. BURKE. Now, in the case of a disease contracted in the course of and arising out of employment, is that also covered?

Mr. BELSLEY. That is treated similarly.

Mr. BURKE. Regardless of what the disease is? For instance, there may be a United States Public Health nurse—a Public Health Service employee—who may be caring for tubercular cases, and she might contract tubercnlosis.

Mr. BELSLEY. That is right.

Mr. BURKE. She is covered?

Mr. KINGSLEY. Yes, if contracted in the course of duty it is covered.

Mr. BURKE. Regardless of what the disease is?

Mr. KINGSLEY. Yes.

Mr. BURKE. That is all.

Mr. KELLEY. Mr. Wier.

Mr. WIER. I would like to clarify in my own mind the point that was brought up by Mr. Jacobs. That was primarily new subject matter in the proposed bill, and I believe he was talking about the new things in the bill. One is retroactive pay; the other is further inclusions.

Mr. Jacobs, were you thinking in the terms that over a long period of time, say, 10 years, or let us go back to 1937 or 1939, when the standard of living made a very severe climb upward, that all of the adjustments which have been made by this Department from that time, 1937, to today, would be subject to review and paid, therefore, in accordance with the attached schedule?

Mr. JACOBS. No, Mr. Wier; I was not thinking of that. I think they have a formula in the bill to take care of that. I was thinking more in terms of the man who was injured.

I believe I may clarify it by saying that in the case that I cited, the case of the man who lost an eye, it was determined that that did not necessarily impair his earning capacity, and so it could not be determined that he should come under this schedule. And I was inquiring in regard to a case where there was a back injury and if the earning capacity was impaired, if he could have been adjudicated at that time. Could he have been?

Mr. BELSLEY. I think so.

Mr. JACOBS. And I am thinking about the fellow who does not get the compensation because he can still walk. He may have lost a leg and he walks because he has gotten a wooden leg—but, still, he has lost a leg. I was asking about his compensation.

Mr. WIER. All right. Now, how many cases would that open?

Mr. JACOBS. It does not make any difference how many cases it would open. We ought to give him compensation if he has lost a leg.

Mr. WIER. I am not talking about the leg or loss of a member.

Mr. JACOBS. Well, that is what I had in mind, anyway.

Mr. WIER. All right. Let me ask you about retroactivity. Approximately how many cases a year would be added?

Mr. KINGSLEY. Mr. McCauley can answer that.

Mr. WIER. I would like to know how many would be added.

Mr. BELSLEY. Almost \$7,000,000 for H. R. 3191.

Mr. WIER. Seven million dollars?

Mr. KINGSLEY. That is right.

Mr. McCAULEY. Approximately 80,000 new cases are reported annually.

Mr. WIER. Eighty thousand?

Mr. McCAULEY. Yes; of which only about 11,000 actually go to compensation.

Mr. WIER. Eleven thousand out of 80,000?

Mr. McCAULEY. Yes.

Mr. WIER. I have another point concerning complete coverage in this bill. What does your Department think of a nonpaid Govern-

ment employee—that is, if he is serving his country without pay, would he be covered? In other words, how do you people determine when somebody is on the United States pay roll?

Mr. BELSLEY. Did you say “when”?

Mr. WIER. Yes; when, and how do you determine it, do you know? Suppose there is somebody in some agency rendering a patriotic service without pay.

Mr. KINGSLEY. Well, I think, Congressman, that we could only pick them up if authorized by statute.

Mr. WIER. That is what I am wondering. We have a lot of these people today serving on committees, and they serve day after day on these committees and commissions and review boards and so forth. I am wondering when and where you draw the line as to whether they are covered by this law.

Mr. BELSLEY. If their designation was under authorization by statute.

Mr. WIER. By statute?

Mr. BELSLEY. That is right.

Mr. WIER. And only by statute?

Mr. BELSLEY. Yes.

Mr. PERKINS. Assuming that an individual employee does not suffer any specific loss of any member but has an injury to his back, which prevents that fellow from following his course of employment, are there any provisions in this bill here that enable him to be judged totally disabled?

Mr. KINGSLEY. Yes.

Mr. PERKINS. That is all.

Mr. WIER. Have I got a minute left?

Mr. KELLEY. Yes.

Mr. WIER. One more question, then. Without going into the bill, how many vital changes are there between the proposed bill (H. R. 3191) and present law?

Mr. KINGSLEY. Why, I would think, Congressman, that the most vital would be, first of all, the increase in benefits.

Mr. WIER. Yes.

Mr. KINGSLEY. Secondly, the extension of coverage to officers as well as employees. Third—I am not listing these necessarily in the order of importance—but, third, the addition of a schedule for loss of members.

Those are the three major changes.

Mr. BURKE. For loss of member and determination of percentage disability.

Mr. KINGSLEY. And the compensation for loss of earning power. It is not put in terms of compensation, in terms of percentage of disability. It is in terms of compensation for loss of wages or loss of earning power.

Mr. KELLEY. The House is having roll call on the floor, and the Members will have to go now. Could we continue tomorrow morning at 10 o'clock?

(Discussion off the record.)

Mr. KELLEY. We will adjourn until 10 o'clock tomorrow morning.

(Whereupon, at 11:25 a. m., the subcommittee adjourned until 10 a. m., Tuesday, April 12, 1949.)

FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1949

TUESDAY, APRIL 12, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Augustine B. Kelley (chairman) presiding.

Mr. KELLEY. The committee will please be in order.

TESTIMONY OF J. DONALD KINGSLEY, ACTING ADMINISTRATOR, FEDERAL SECURITY AGENCY, ACCOMPANIED BY G. LYLE BELSLEY, COMMISSIONER FOR SPECIAL SERVICES; WILLIAM McCaULEY, DIRECTOR, BUREAU OF EMPLOYEES' COMPENSATION; AND WARD E. BOOTE, CHIEF COUNSEL, BUREAU OF EMPLOYEES' COMPENSATION—Continued

Mr. KELLEY. Mr. Smith, you are recognized for 10 minutes.

Mr. SMITH. Who wrote this bill?

Mr. KINGSLEY. I believe this bill was prepared by the general counsel's office of the Federal Security Agency.

Mr. SMITH. Did you prepare the bill?

Mr. BELSLEY. No, sir; I did not.

Mr. SMITH. Who did?

Mr. BELSLEY. I think it was the general counsel's office of the Federal Security Agency. That is correct.

Mr. SMITH. Mr. McCauley, did you have anything to do in the preparation of this bill?

Mr. McCAULEY. I did; yes, sir. I participated in the preparation of it by the general counsel.

Mr. SMITH. Well, sit up here. I am not trying to be critical of who wrote the bill, because I think it is proper and fitting that it should be written by the people that are going to administer the law.

Now, Mr. McCauley, one of the chief difficulties we had last year in this bill was the fact that the private employers of the District of Columbia come under the same act.

Mr. McCAULEY. No, sir; they do not. The District of Columbia comes under the Longshoremen's and Harbor Workers' Act.

Mr. SMITH. This act does not pertain at all?

Mr. McCAULEY. No, sir; it is a separate enactment.

Mr. SMITH. Separate enactment?

Mr. McCauley. Yes, sir. The Longshoremen's and Harbor Workers' Act has been extended to apply to the District of Columbia. That act, incidentally, was amended last year to increase the benefit provisions.

Mr. Smith. We have that to go up, too. I was under the impression that was the same law.

Mr. McCauley. No, sir; it is a separate law. This law that we propose to amend applies exclusively to Federal personnel.

Mr. Kingsley. We administer both laws; Mr. McCauley administers both laws, but that is the situation, as he describes it.

Mr. Smith. I knew you were administering both laws.

Mr. McCauley. Yes, sir. We appeared in connection with the Longshoremen's and Harbor Workers' Act last year.

Mr. Smith. Is there any place in this law for loss of hearing?

Mr. McCauley. Yes, sir; there is a schedule for that loss. It provides, for complete loss of hearing, one ear, 52 weeks' compensation; complete loss of hearing, both ears, 200 weeks' compensation.

Mr. Smith. What is your idea, Mr. McCauley, as far as the administration of the bill is concerned, as to what the effect would be of making it retroactive? Would it be an almost impossible task to administer it?

Mr. McCauley. You had in mind making what provision retroactive?

Mr. Smith. For instance, under this law for Federal employees, loss of arms or eyes and back injuries, and that sort of thing.

Mr. McCauley. Of course, we could probably administer whatever type of legislation is proposed; but, as a practical matter, the application of the schedule retroactively would not present insurmountable difficulties in the case of a man losing his eye, irrespective of when he loses his eye. You can measure that loss.

Mr. Smith. You do have a yardstick in such a case, the loss of an eye.

Mr. McCauley. That is right, but when you come to dealing with partial loss, then you do run into difficulties and it would present a rather difficult administrative problem.

Mr. Smith. Taking into consideration the present set-up in your department, if this law was made retroactive, let us say to go back 5 years or 10 years, would it necessarily increase the administrative cost?

Mr. McCauley. No doubt in the world about that, it would.

Mr. Smith. What is your best estimate as to the increase, 50 or 100 percent?

Mr. McCauley. I would be reluctant to hazard any guess, Mr. Smith, at this time, since we did not anticipate applying it retroactively and we made no calculations of what it would involve; but, certainly, it would involve a very considerable increase in expenses.

Mr. Smith. I hope that I am not getting into anything I should not get into, but what about these employees who are working in defense plants which have to do with atomic bombs or atomic energy? Is that going to present any problem in the future in regard to occupational diseases?

Mr. McCauley. I doubt if anyone knows the ultimate hazards that might be involved in that type of operation. Thus far, we have had

very few cases presented originating from operations of the Atomic Energy Commission.

Mr. SMITH. Have you had any?

Mr. McCauley. We have had some cases; yes, sir, but most of them were traumatic, not involving radiation.

Mr. SMITH. In other words, working around the atomic-energy plant, you would say very readily that your cases are traumatic?

Mr. McCauley. Yes, sir. Now, I think, if any effects of radiation were shown, there would not be any question but that it was occupational.

Mr. SMITH. Occupational; and you would have some objective symptoms, would you not?

Mr. McCauley. Yes, sir. There is always the possibility that the effects of exposure to such radiation will show up in the future. I do not know that anyone could foresee what the developments will be. It may be that those effects will be delayed for a long time. I am not familiar with the effects of such radiation.

Mr. SMITH. As far as you know, no budget has been set up nor do you have any figures as to the probable effect in the future, so that you would have some idea of the load and the cost that would apply to these people exposed?

Mr. McCauley. At the present time we have not. I think that everyone hopes that the safety measures which they have adopted will prevent serious results of that character; but I imagine that will have to remain for the future to tell, whether there will be such developments or not.

Mr. SMITH. What has been your experience under this act as far as men working in the outlying possessions of the world, in our far-flung, world-wide, bases?

Mr. McCauley. In what respect?

Mr. SMITH. Are you getting into their cases?

Mr. McCauley. Yes, sir; we have covered civilian employees of the United States, irrespective of their place of employment. We have had their injuries reported from almost every point on the earth.

Mr. SMITH. What has been your experience on small islands and outlying possessions, where you employ native labor?

Mr. McCauley. The incidence of injuries among native labor is probably higher than it is among corresponding employment in the United States.

The wage scale, of course, is relatively low, quite lower as a matter of fact, and cost of the injuries is not great. For operations outside of the United States and in foreign territories we do not pay the full scale of benefits authorized by this law. We are authorized to pay under a special schedule if we deem it advisable, or we may pay in accordance with the prevailing law or custom in the area where employment is carried on.

In the British West Indies we are settling cases in accordance with local law. In Iran and in portions of Africa we settle cases involving native labor in accordance with local law. In the Philippines we have adopted a special schedule which is identical with the schedule for labor in the United States for such as WPA and CCC and related programs.

Mr. SMITH. If the minimum-wage law is passed raising the minimum wage and the court holds that law applies to wherever the

American flag flies, then you would have to base your compensation rates on that; would you not?

Mr. McCAULEY. No, sir; I think we would still be able to apply the provisions of existing law, which would enable us to provide a different schedule of payment where the local law or custom differs from our statute.

Mr. SMITH. But if the Congress passes a law and says that the minimum wage law applies to wherever the flag flies in the far-flung areas of the earth, I do not see how you will get away from paying in those cases.

Mr. McCAULEY. I should say that the statute does not make the minimum compensation rate applicable to such points outside of the United States, so I do not see any reason for apprehension.

Mr. SMITH. There is a recent Supreme Court decision that would seem to be contrary to that.

Mr. McCAULEY. We had to remove the minimum even under existing law, to take care of certain situations outside the United States.

Mr. SMITH. What do your records show with regard to malingering when you use native labor?

Mr. McCAULEY. It has not presented a problem to us because we have had schedules in certain areas which enabled us to dispose of disability cases under that schedule; and in other areas the benefits under local law are usually so low that when we settle, we feel we have made a pretty good settlement.

Mr. SMITH. What is your procedure in these far-flung bases? Do you have your own representatives there, or do they all come to Washington?

Mr. McCAULEY. We have representatives in the Pacific. We have an office in Honolulu and one at Manila. We rely on the Government agency conducting the operation in other areas to investigate the cases for us and submit their reports to us for final adjudication.

Mr. SMITH. What about in Germany?

Mr. McCAULEY. We have had a representative in Europe until last year, until the number of cases fell off to such an extent that we did not feel justified in keeping him there. Much of the employment in Europe is paid under the occupation account, and we do not consider those people civilian employes of the Army; not all of them.

Mr. SMITH. What about the Army employees; are they under your act?

Mr. McCAULEY. Yes; they are covered by our act. The Army in those outlying areas acts as our agent to a certain extent.

Mr. SMITH. And you use these services to give you a recommendation on the extent of the disability?

Mr. McCAULEY. Yes, sir.

Mr. SMITH. That is all.

Mr. KELLEY. Mr. Velde?

Mr. VELDE. I am not quite sure of the additional coverage. Will you tell me how many employees are expected to be covered by this act?

Mr. KINGSLEY. There would be a maximum of about 25,000.

Mr. VELDE. And how far does that extend? That is, how do you determine whether a person is an employee?

Mr. KINGSLEY. The difficulty with the present act, Congressman, is that you do have to make that determination as between employees and officers or officials. The proposed change in this bill would eliminate that distinction, so that all that needs to be done is to determine whether they actually are on the pay roll; or even if they are serving without compensation, there is a provision which extends the act to people serving without compensation under certain conditions. But there will be no distinction between officers and employees under this bill. Anybody who is working for the Government and who is on the pay roll would be covered.

Mr. VELDE. This is up to the Administrator, to determine finally who is covered by this act?

Mr. KINGSLEY. Yes, sir.

Mr. VELDE. That will be in the discretion of whoever administers the act?

Mr. KINGSLEY. Under the terms of the statute, yes, sir.

Mr. VELDE. These officers and others who are doing temporary work—and some were mentioned yesterday, for instance, members of commissions doing work for the Government—how do you determine the amount of compensation to pay such a person? How much would you pay a dollar-a-year man, for instance?

Mr. KINGSLEY. That is spelled out in the bill to some extent. Which section is that?

Mr. VELDE. Page 24, page 25, and particularly page 26 of the bill.

Mr. KINGSLEY. In general—and I think perhaps some of the others will fill in any details that I leave out—in general the attempt is made, first, to relate the kind of work being done by the dollar-a-year man to some kind of work being done in the Government. If they can be related, then the same rate of compensation is used. That is done with the help of the classification people in the civil service.

However, under this bill the rate of compensation in no case can be fixed higher than P-8 or CAF-15. For example, if you had an executive of a corporation as a dollar-a-year man for the Government, and he had been getting \$100,000 from his corporation, you would not consider that fact as to his outside salary in fixing the compensation. The limit is still fixed in the law.

Mr. VELDE. The amount of compensation, really, is discretionary in those cases; is it not?

Mr. KINGSLEY. In very large measure. However, it cannot be higher than P-8 or CAF-15, and it is subject to the further limitation that if the work cannot be related to work being done in the Government, the Administrator fixes it at no more than \$3,600.

Mr. BELSLEY. That is the base.

Mr. VELDE. That would be the maximum under CAF-15, \$3,600; would it not?

Mr. KINGSLEY. No; you see, the \$3,600 would be a limitation which applies in the event you cannot relate the work being done by the dollar-a-year man to any work in the Government. If you can relate it to any work in the Government, then the rate would be fixed at the rate for that work which, in the case of CAF-15, might be up to \$9,975.

Mr. VELDE. That would be his total disability compensation?

Mr. BELSLEY. No, that would be his base pay, on which the formula would be applied. It would not be the compensation he would receive for the injury.

Mr. VELDE. Oh, I see. That is all.

Mr. WIER. I have a couple of questions.

Mr. KELLEY. Wait a minute, Mr. Wier. You had your time yesterday. Mr. Powell is next. Will you yield?

Mr. POWELL. Yes; I yield.

Mr. WIER. Do you mean by that, that each committee member will get only one chance for getting information?

Mr. KELLEY. Yes; every member, under the rule, gets 10 minutes.

Mr. BURKE. May I ask a procedural question at this point?

Mr. KELLEY. Yes.

Mr. BURKE. I would like to ask if these attorneys will be available to us when we finally get down to making any amendments.

Mr. BELSLEY. Mr. Chairman, someone will be available to you all of the time.

Mr. BURKE. Thank you.

Mr. WIER. The question I wanted to ask follows Mr. Smith's questions on the atomic plants.

As I understand it, these atomic plants, at least in their collective bargaining, do not bargain with the Government; they bargain with the management in charge of those plants. How do they become Government employees?

Mr. McCAULEY. A large part of their operation is not direct employment by the Federal Government. It is a contract operation.

Mr. WIER. That is what I understood.

Mr. McCAULEY. There are contracts with large industries like General Electric.

Mr. WIER. And are we responsible for their compensation?

Mr. McCAULEY. No, sir; those cases come under State law.

Mr. WIER. All right. Now, point No. 2, following Mr. Velde when he asked about these professional employees: Did you ever have a case where somebody working on a dollar-a-year basis or volunteering his services to a commission sitting for the Government, made any claim, for example, on an automobile accident or for falling down? Did you ever have somebody who did not draw salary ask for compensation?

Mr. McCAULEY. Yes, sir; there have been some such cases.

Mr. WIER. That is all.

Mr. McCAULEY. If I could clarify further this situation in respect to atomic energy, the Commission itself does have staff personnel at the site of some of those operations. Those employed directly by the Atomic Energy Commission would come under this law, but the contract employees would come under the respective State laws.

Mr. BELSLEY. And the latter are the overwhelming proportion.

Mr. WIER. That is what I thought. However, I gathered from what Mr. Smith asked that you were making coverage on all of the atomic energy employees.

Mr. McCAULEY. I did not intend to say that.

Mr. WIER. Then, they are either under your law or under State compensation; either in your department or the department of the private employer.

Mr. McCAULEY. They could be in either.

Mr. BELSLEY. They are in both.

Mr. WIER. Thank you.

Mr. KELLEY. Mr. Burke?

Mr. BURKE. Referring to page 16, subsection 16, concerning an amputated arm or leg, I have a question.

In studying this bill last night the thought struck me on one particular thing here, where you have the case of an amputation either above or below the knee or elbow joint, and the application of a prosthetic appliance is necessary. Has it not been determined that you facilitate the use of those appliances when the point of articulation is kept intact? I am just wondering whether more compensation should not be applied under the schedule for the loss of the point of articulation.

Mr. McCauley. I do not believe the question has been raised in my experience concerning the extent of the handicap in that particular situation.

Mr. BURKE. The administration would have no objection, though if that should be put into the schedule, allowing for that?

Mr. McCauley. No, sir; I am quite sure we would not, as long as there is no schedule for it already.

Mr. KINGSLEY. If there is some relationship; that is, if the relative relationship is maintained.

Mr. BURKE. It has been the experience under the State laws that where the articulation has been kept intact, that the use of the prosthetic appliance is better than if the joint is lost.

Mr. McCauley. That is right.

Mr. BURKE. And so actually I believe that more compensation should be applied to a case where the joint is lost.

Mr. KELLEY. Pardon me, but all of the time you have has expired. Thank you very much, gentlemen.

We will next hear from Mr. Sibley.

TESTIMONY OF NEAL A. SIBLEY, REPRESENTING THE NATIONAL ASSOCIATION OF POSTMASTERS OF THE UNITED STATES

Mr. SIBLEY. Mr. Chairman and gentlemen of the committee, my name is Neal A. Sibley. I am the postmaster of Baltimore, Md. I am a member of the National Association of Postmasters of the United States, and the chairman of their legislative committee. I will confine my remarks to generalities relative to this bill.

Section 102 and section 103 liberalize the basic benefits of employees in the Government service. Section 108 includes those who in previous legislation were not included.

In the Compensation Act of 1916, postmasters of the first, second, and third classes were excepted. Since that time, postmasters have all been placed under civil service. They are required to work at least 8 hours a day. Many of them work many more hours per day. They have not been included in compensation legislation prior to this, although I do want to say in my own particular case I was included, but when I was made postmaster, I lost my status. A great many postmasters find themselves in the same condition today. The fourth-class postmasters who were advanced to the third class lost their status. If they are relegated back to the fourth class again, they acquire their status again. It is a sort of a checker game with the postmasters.

As an organization, we heartily endorses provisions of this bill relative to the liberalization and the coverage.

From my experience as postmaster I feel that the letter carriers and the clerks in the Postal Service are confronted with many hazards arising in the course of their work, particularly those employees working on trains, driving motor vehicles, and working in the vehicle shops. There is always a hazard there, and they may be incapacitated in some form or another.

We believe that with the increased cost of living there should be some increased compensation in the case of disability or death.

We also believe that this section 108 which extends the coverage to postmasters and Members of Congress and many others is a very fine gesture. We heartily endorse those provisions of this bill.

I want to thank you for your courtesy and for the privilege of appearing before you and speaking these few words on behalf of the postmasters of the United States.

Mr. KELLEY. Well, just a moment before you leave, there may be some questions. Mr. Powell?

Mr. POWELL. No questions?

Mr. KELLEY. Mr. Bailey?

Mr. BAILEY. Mr. Sibley, you say you are the postmaster at Baltimore, Md.?

Mr. SIBLEY. Yes, sir.

Mr. BAILEY. That is a pretty large operation. What is your experience there? Is there an appreciable number of accidents?

Mr. SIBLEY. No; not an appreciable number, but there are accidents, and a great many of them happen to letter carriers. To give you an example, in inclement weather when it is icy or slippery and these men have to climb up 10 or 15 or 20 steps, in that slippery weather, they are apt to fall and become injured. We do experience, on occasions like that, injuries to letter carriers.

We also have cases where carriers are injured on the streets while on duty. They are hit by automobiles. We have cases where our own automobiles have turned over and we have had a couple of deaths from our trucks turning over. We are not alone in that, of course, there are a lot of traffic accidents, but we have had several deaths of that kind, and that hazard is always present with the employees engaged.

As you gentlemen know, recently there was a clerk down in Tennessee who had his arm blown off. I think it was Tennessee.

Mr. PERKINS. Kentucky.

Mr. SIBLEY. Yes, Kentucky. Now, that man is injured for life, and I think our Government should take care of him. He was in discharge of his duty.

The same thing applies to a postmaster recently out in Arizona where some patron of the office shot him and killed him because he did not have any mail for him.

I know of a case right down here in Baltimore County, of a postmaster, a woman, who tried to lift a large filing cabinet off of the top of another cabinet. She ruptured herself and had to go to the hospital at her own expense.

We feel that as long as employees are injured in the discharge of their duties, there is some responsibility for them to be taken care of in some form or another.

As I say, some of them are provided for by present legislation. Postmasters are not, and we ask consideration of that particular feature in this bill.

Mr. BAILEY. That is all.

Mr. KELLEY. Mr. Perkins?

Mr. PERKINS. Nothing.

Mr. KELLEY. Mr. Burke?

Mr. BURKE. You are in favor of the whole bill?

Mr. SIBLEY. In general, yes.

Mr. BURKE. In general?

Mr. SIBLEY. I mean, we are not going to endeavor to interpret all of the provisions of the bill before the committee, but we are in favor of the bill, in general.

Mr. BURKE. That is all.

Mr. KELLEY. Mr. Wier?

Mr. WIER. No questions.

Mr. KELLEY. Mr. Smith?

Mr. SMITH. No questions.

Mr. KELLEY. Mr. Velde?

Mr. VELDE. No questions.

Mr. KELLEY. Thank you very much.

Our next witness is Mr. Keating, representing the letter carriers.

TESTIMONY OF JEROME J. KEATING, SECRETARY, NATIONAL ASSOCIATION OF LETTER CARRIERS

Mr. KEATING. Mr. Chairman and gentlemen of the committee, my name is Jerome J. Keating. I am secretary of the National Association of Letter Carriers, an organization of some 95,000 members. Our association was organized in 1889 and is the largest and oldest postal-employee organization. We represent city, rural, and village carriers in the postal service.

On behalf of the National Association of Letter Carriers, I want to endorse and urge early and favorable action on H. R. 3191. We appreciate greatly the interest that Congressman John Lesinski has taken in introducing this legislation. We appreciate the interest of Congressman Kenneth Keating who sponsored similar legislation in the last session of Congress and appeared before this committee on behalf of this legislation.

The Lesinski bill is a fine, forward-looking measure. Changes in the compensation bill are long past due. The Compensation Act was originally approved on September 7, 1916. It has been subjected to several amendments since the original passage. However, the last amendment that changed the rate of compensation was enacted on February 12, 1927. Since that time the rates of pay and the cost of living have increased greatly.

The employee who is injured on duty is now compelled to suffer extreme deprivation because of such injury. The act, at present, provides for compensation at the rate of 66 $\frac{2}{3}$ percent of salary, based upon a maximum salary of \$175 and a minimum salary of \$87.50 per month. You can readily see that the maximum compensation is \$116.66 per month and the minimum compensation \$58.33 per month. These limits are totally inadequate today.

Compensation is generally only paid in cases where employees sustain personal injury in the performance of duty. There is a provision in the law for occupational injury but, except in clearly defined areas, occupational injury is difficult to establish. Under the present rate, employees who are accidentally injured are required to get along on compensation that, in most cases, is approximately 39 percent of the regular income of the employee. The Lesinski bill establishes the minimum compensation at \$112.50 a month. The bill provides for compensation at the rate of $66\frac{2}{3}$ percent of the wage loss, plus $8\frac{1}{3}$ percent where the disabled worker has one or more dependents. This is a very fair and modern schedule.

The bill also provides for a scheduled payment of benefits in case of a disability, partial in character but permanent in quality which results in the loss of a member or the loss of the use of a member or functions of the body. Under the present law the employee is paid for actual time off in compensation. The United States employees' compensation law is one of the few compensation acts that does not have a detailed schedule for injury. The schedule contained in the Lesinski bill is the same as that provided for in the New York State law and is eminently fair.

Section 107 of the Lesinski bill also amends section 11 of the Compensation Act. Section 11 provides that if death results from an injury sustained in the performance of duty within 6 years, a cash payment of \$200 will be made for funeral and burial expenses. I am positive that the members of this committee well realize that \$200, with prevailing prices, is merely a token payment. Decent burial cannot be provided for this price. H. R. 3191 increases the amount to \$400.

Section 106 of the Lesinski bill amends section 10 to provide for an increase in the death benefits payable to widows or wholly dependent widowers and dependent children. To the widow, if there are no children, the percentage is increased from 35 to 45 percent. In the event there is a child the widow's benefit is increased from 35 to 40 percent and the individual children's benefits are increased from 10 to 15 percent. The aggregate for all beneficiaries shall not exceed 75 percent. If there is no widow or widower, the children's benefits are increased from 25 percent to 35 percent for the first child, and from 10 percent to 15 percent for each additional child, and again the aggregate shall not exceed 75 percent. There is a pressing demand for this legislation.

The provision in the Lesinski bill which establishes compensation on a percentage basis without establishing a definite ceiling is most realistic. If such a provision had been in the original bill the Government employees would not have been placed in such a reduced state when they suffered injuries. Under this provision, if salaries increase compensation increases likewise, and if salaries decrease compensation decreases likewise. That is exactly as it should be.

Perhaps the members of the committee and the public do not generally regard the position of a letter carrier as being a hazardous occupation. In computing the frequency of injuries, the Compensation Commission uses as a basis the rate of disabling injuries per million man-hours of work. The frequency rate for letter carrier is 17.8. To illustrate the significance of the figure I might point out the frequency in the Post Office for all employees is 8.8. The frequency in the Navy

Department is 6.5; the frequency in the Interior Department is 13.8 and the frequency for the Federal Works Administration is 15.6. The severity of injury is measured on the basis of 1,000 man-hours worked, and the severity for letter carriers is 0.55 compared to 0.22 for the Post Office as a whole. This indicates the severity of the letter carriers' work.

I would like to point out a few cases that illustrate how important and urgent early liberalization of the Compensation Act is to the members of our association. On January 26, of the present year, William Osborne, a member of our Association at Bowling Green, Ky., was handed a package that had been taken out by the letter carrier serving a particular route but was undeliverable because of an improper address. The package suddenly exploded in his hands. William Osborne, a 29-year old veteran, lost both arms up to the elbows and lost the sight of both eyes. Several operations have been performed but they have been unsuccessful.

William Osborne is married, has a wife and one child, and another is expected. He will be unable to perform any duty for the rest of his life and will require constant service and attention. His compensation under the present law is \$116.66 a month. Several other employees were injured in this accident but none of them seriously. Undoubtedly, this particular package had been handled by many other employees, clerks, and carriers, and the same accident could have occurred to anyone who touched or handled the package.

I might relay to the committee that, because of the terrific interest and the complete disabling of this employee, the good folks in Bowling Green and the postal employees all over the country have been sending in contributions to a William Osborne fund.

As of April 7, the postal employees all over the country—and they all participated, postmasters, clerks, carriers, and everybody else—had collected a total of some \$45,000.

This morning, we sent an additional check in the amount of \$4,455. So, the total collection for this particular employee amounts \$49,503, at the present time.

Of course, it is impossible in all other cases of a similar nature to expect such contributions, but this boy lost his arms up to his elbows and he lost the sight of both eyes, and there is no hope that he will ever be able to do anything for himself, and it had such an intense appeal that folks all over the country were interested and donated to that fund.

On February 19 of this year a crazed veteran of World War II leaned from the window of the sixth floor of the YMCA in Dallas, Tex., and sprayed bullets from a .22 pistol on a crowded downtown street. He told police he was shooting Communists. He shot 21 bullets into the crowded thoroughfare. Pedestrians scattered; Theodore Thornton, a letter carrier on duty, was struck in the head. The next day he died. He left a widow and four minor children. The maximum compensation that these five people can receive is \$116.66 per month.

A short while ago, Alexander Cook, a letter carrier in the city of New York, was returning from delivery of his route. A woman intent on suicide jumped from the fifteenth floor of an apartment building. She not only killed herself, but she landed on Carrier Cook,

crushing him to death. He left a widow and four small children. They, too, receive from the Government \$116.66 a month.

Our people are being injured less spectacularly every day of the year and for these injuries they are compelled to go upon a greatly reduced standard with the unfair limit of compensation now paid. I could tell about the case of Herbert Kull, of Columbia, S. C., who slipped on icy steps 5 years ago and has been having spinal operations ever since. In the city of St. Louis 81 letter carriers required medical treatment as a result of injuries suffered from falls on the ice during the last week of January of this year; 32 were hospitalized with fractured legs and arms or chipped bones; 49 were given first-aid treatment.

Where men are compelled to work in hazardous situations they are entitled to fair and just protection, and that is all we seek. We earnestly recommend that you favorably report out the Lesinski bill, H. R. 3191. This bill has the endorsement of everyone. We hope that hearings can speedily be concluded and that the committee will take prompt action to report the bill to the House for early enactment.

We thank the committee for the opportunity of having appeared here to testify on behalf of this fine, meritorious legislation.

Again, I want to thank you, Mr. Chairman and gentlemen of the committee, for having this opportunity of appearing before you about this legislation.

Mr. KELLEY. Thank you.

Mr. Powell?

Mr. POWELL. No questions.

Mr. KELLEY. Mr. Bailey?

Mr. BAILEY. I think his presentation answers all the questions, Mr. Chairman.

Mr. KELLEY. Mr. Burke?

Mr. BURKE. I just have one or two questions. Your organization probably had a great deal to do with the recommendations that went into this particular bill?

Mr. KEATING. Yes; we did, Mr. Congressman.

Mr. BURKE. On the rehabilitation phase of it, the \$50, I believe, that is provided for personal maintenance over and above the compensation—

Mr. KEATING. The personal maintenance is now \$50. This bill increases it.

Mr. BURKE. This bill increases it?

Mr. KEATING. Yes.

Mr. BURKE. But that is over and above the compensation?

Mr. KEATING. Yes. Well, that is for rehabilitation. There is no rehabilitation in the present law. This establishes a rehabilitation schedule. I thought you were talking about the attendant here, in a case like Osborne's.

Mr. BURKE. Yes. I was going to go into that. That provides for his wife; that is, she can be his attendant, can she not?

Mr. KEATING. Yes; she can be the attendant; that is right.

Mr. BURKE. All right.

Mr. KEATING. She can receive up to \$75 under this law, and \$50 under the present law, which is away inadequate. In a case where you have a wife who can take over the attendance, of course, you can

secure your wife for that attendant. But if it is an individual who has no relatives, he cannot secure attendance for \$50. Actually, they cannot do it for \$75.

Mr. BURKE. That is right. That is all.

Mr. KELLEY. Mr. Wier?

Mr. WIER. You did not mention how many of your letter carriers were getting their legs eaten off by dogs, did you?

Mr. KEATING. No. Of course, there is a good bit of disabling there. Of course, that is not as serious as other things. For instance, they suffer from falling arches, and they may slip and break their backs. However, a good many of them do get bitten.

Mr. WIER. And also a good many letter carriers develop varicose veins.

Mr. KEATING. They do get varicose veins; yes, sir; and fallen arches and arthritis. In fact, we feel, on the occupational feature, that we could establish a very good case for occupational ailments for letter carriers. Take the sack that they have to carry, that puts their spines out of shape. Also, they get fallen arches through years of pounding the pavements.

Mr. WIER. That is all.

Mr. KELLEY. Mr. Smith?

Mr. SMITH. Are all of those cases compensable?

Mr. KEATING. All of those cases that I mentioned are.

Mr. SMITH. You mean, if they have fallen arches or varicose veins, that those are compensable?

Mr. KEATING. Oh, no; they are not compensable. You have to establish the fact that an accident occurred, to get compensation. There is a provision for occupational ailments, but it only generally applies in the case of silicosis, or something of that nature. You have to establish a very definite relation to the injury, and it is difficult to establish a case of fallen arches or varicose veins or arthritis and things of that sort.

Mr. SMITH. How about sunstroke or heat prostration?

Mr. KEATING. Sunstroke or prostration would be regarded in the nature of accidents and would be compensable.

Mr. SMITH. Automatically?

Mr. KEATING. They would have to establish the fact that it happened on the route, that the man collapsed on the route.

Mr. SMITH. You would have to establish that they were exposed to a greater hazard than anybody else in that general vicinity at that time, would you not?

Mr. KEATING. No; the fact that they had the heat prostration while performing their duty was proof that at least part of it resulted from exertion.

Mr. SMITH. I do not think that is so in some States, at least. I think that in case of heat prostration or sunstroke you have to show that you were exposed to a greater hazard than everybody else.

Mr. KEATING. In that case, I think that can be established very easily, considering the load the letter carrier was carrying.

Mr. SMITH. That is all.

Mr. KELLEY. Mr. Velde?

Mr. VELDE. No questions.

Mr. KELLEY. Thank you very much, Mr. Keating, for your presentation.

Our next witness is Mr. Horton.

**TESTIMONY OF JESSE V. HORTON, FIRST VICE PRESIDENT,
NATIONAL ASSOCIATION OF POSTAL SUPERVISORS**

Mr. HORTON. Mr. Chairman and gentlemen of the committee, my name is Jesse V. Horton, and I am the first vice president of the National Association of Postal Supervisors, with a membership of approximately 15,000, in first- and second-class post offices throughout the Nation.

The provisions of the Federal Employees' Compensation Act of 1916 are based on salaries and living costs of a generation ago and are entirely inadequate to meet present-day conditions. An employee who is injured on duty cannot subsist and provide for his family on the present meager allowance, and the family of one who loses his life is left without adequate means to pay funeral expenses and readjust their living conditions.

The National Association of Postal Supervisors believes that the bill under consideration, H. R. 3191, makes reasonable provision for all cases of injury or death of employees in the line of duty and strongly recommends that it be enacted into law without amendment.

Thank you for the opportunity of appearing on this legislation, Mr. Chairman.

Mr. KELLEY. Mr. Bailey?

Mr. BAILEY. No questions.

Mr. KELLEY. Mr. Burke?

Mr. BURKE. When you recommend that this law be enacted without amendment, what do you mean?

Mr. HORTON. We are not proposing any amendments.

Mr. BURKE. All right. Now, if we find some better provisions, for instance, under a schedule, as was suggested this morning in the case of a loss of an arm or a leg above the knee or elbow joint, you would not object to a change allowing additional compensation, would you? Would you object to any changes of that type?

Mr. HORTON. Absolutely not. We would heartily endorse any improvements that might be made.

Mr. BURKE. That is all.

Mr. KELLEY. Mr. Wier?

Mr. WIER. Supervisors work inside, do they not, in the post office, they are not outside men?

Mr. HORTON. For the most part. Some supervisors are assigned to inspection of carrier routes, and they are outside inspecting along those routes that they are assigned to.

Mr. WIER. But most of them are inside the buildings?

Mr. HORTON. Yes, sir; 95 percent of them.

Mr. WIER. That is all.

Mr. KELLEY. Mr. Smith?

Mr. SMITH. No questions.

Mr. KELLEY. Mr. Velde?

Mr. VELDE. No questions.

Mr. KELLEY. Thank you, Mr. Horton, for your presentation.

Is Mr. Walters present?

Mr. WALTERS. Yes.

TESTIMONY OF THOMAS G. WALTERS, OPERATIONS DIRECTOR OF THE GOVERNMENT EMPLOYEES' COUNCIL, AMERICAN FEDERATION OF LABOR

Mr. WALTERS. Mr. Chambers. Mr. Chairman and members of the subcommittee, by way of introduction, my name is Thomas G. Walters, operations director of the Government Employees' Council of the American Federation of Labor, 900 F Street NW; phone, Executive 0375.

The Government Employees' Council of the American Federation of Labor is made up of 21 national and international unions whose membership, in whole or in part, are civil-service employees. The total Federal employee membership of the Government Employees' Council is approximately 500,000 members.

For several years, the Government Employees' Council has advocated and supported legislation that would amend and bring up to date the Federal Employees' Compensation Act. The main purpose of the Federal Employees' Compensation Act is to afford injured employees or their dependents in case of death reasonable protection against the financial loss and burden occasioned by disability or death resulting from injury or disease sustained in the performance of duty.

I am sure that all members of this committee, as well as all Members of Congress will agree that the provisions in the present Federal Employees' Compensation Act are inadequate and have been inadequate for many, many years. The amounts under the present act that can be paid for injury or death were not liberal even at the date of the enactment into law which was almost 25 years ago. From 1926 up to the present time, the Federal Employees' Compensation Act has not been amended to any great extent.

The Government Employees' Council of the American Federation of Labor at a regular meeting unanimously adopted a resolution authorizing me as spokesman for the council to pledge our full support for the enactment of H. R. 3191. We are of the opinion that the enactment into law of the provisions as provided for in H. R. 3191 will be a step in the right direction in granting at least a minimum financial return to those Federal employees and their families who are entitled to receive financial benefits from the Federal Employees' Compensation Act.

Mr. Chairman and members of this committee, we beg of you to recommend to the full committee the adoption of H. R. 3191 and pray for its early enactment into law.

On behalf of the unions and members of the Government Employees' Council of the American Federation of Labor, I express to you our thanks and appreciation for the opportunity of appearing before you in support of H. R. 3191.

Mr. BAILEY (presiding). Any questions, Mr. Burke?

Mr. BURKE. No questions.

Mr. BAILEY. Mr. Wier?

Mr. WIER. No questions.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. Mr. Walters, in your statement you say "disability or death resulting from injury or disease sustained in the performance of duty."

Mr. WALTERS. Yes, sir.

Mr. SMITH. I just want to talk about disease.

Mr. WALTERS. It is possible, under certain conditions. As I understand the law, it provides compensation for certain diseases brought about by an occupation.

Take the Bureau of Engraving, for example, where those fellows handle ink and things of that kind. They come down with ink poisoning quite frequently, and things of that nature that are brought about by their occupation. That is the particular item I had in mind.

Mr. SMITH. The sort of disease you referred to is occupational in character?

Mr. WALTERS. That is right.

Mr. SMITH. It may be something that grows out of his particular employment?

Mr. WALTERS. That is right.

Mr. SMITH. That is all.

Mr. BAILEY. Mr. Velde?

Mr. VELDE. No questions.

Mr. BAILEY. Thank you, Mr. Walters.

We now have Mr. Yaden, of the American Federation of Government Employees.

Mr. STENGLE. I will speak for Mr. Yaden.

STATEMENT OF JAMES G. YADEN, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, PRESENTED BY CHARLES I. STENGLE, LEGISLATIVE REPRESENTATIVE, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. STENGLE. Mr. Yaden is now ill in the hospital with an eye infection. He has prepared a written statement which I ask permission to have entered into the record, as having been read before your committee. I believe that copies of the statement have already been distributed.

Mr. BAILEY. If there is no objection, the statement will be received for the record.

(The statement referred to is as follows:)

STATEMENT OF JAMES G. YADEN, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

I appear in support of H. R. 3191.

The American Federation of Government Employees, affiliated with the American Federation of Labor, is vitally interested in H. R. 3191, pending before your committee. This bill would amend the Federal Employees Compensation Act so as to bring the benefit payments into line with the present economical situation affecting living costs.

These amendments are long overdue. It has been 22 years since the maximum benefits have been adjusted, and during this time every increase in living costs has added to the burden of the disabled employee and the dependents of deceased employees. The amount of compensation being paid in the average case under the present law simply will not enable an employee or dependent of a deceased employee to pay his rent, buy his food, and keep himself clothed, even at subsistence levels. Employees who are totally disabled, in many cases, must resort to charity or the help of friends. We feel this demands remedy.

H. R. 191 is a good bill. Its provisions are realistic. Aside from making it possible for an employee to receive a fair proportion of his wages during disability, it remedies other inequitable situations. Under the present law, employees who lose eyes, arms, legs, fingers, etc. (regarded as anatomical members

of the body), do not receive compensation if they return to their employment at the same wage level. This is wholly unjust as they should be paid for such physical losses. Most workers' compensation laws recognize this. One of the best features of this bill is a guaranty that every worker who loses an anatomical member is paid an indemnity for such loss and at the same time is protected against further wage loss. This feature is often overlooked in drafting amendments to workmen's compensation laws, and this particular bill shows that much careful study has been given to the subject.

The membership of the American Federation of Government Employees stand united behind this bill. It is, therefore, our recommendation that the committee approve H. R. 3191 as written, or at least with no diminishing of the proposed benefits.

Mr. BAILEY. The Government Workers' Union has submitted a statement for inclusion in the record. Without objection that will be done.

(The statement referred to is as follows:)

STATEMENT OF GOVERNMENT WORKERS' UNION, CIO, ON H. R. 3191, TO AMEND THE
FEDERAL EMPLOYEES COMPENSATION ACT

Government Workers' Union approves and supports the general objective of H. R. 3191 to increase compensation for Government employees injured in the course of their employment. Especially desirable are (a) the introduction of a schedule of specific payments for specific injuries causing permanent disability, such as loss of an arm or a leg (sec. 104); (b) the provision that total loss of use is equal to loss of the member (p. 7, line 8); (c) the provision that loss of both hands, arms, feet, legs, or eyes or any two of them is *prima facie* permanent total disability (p. 7, line 7); and (d) the provision for further compensation when such losses result in total or partial disability beyond the prescribed periods. Without this last provision, the specific compensation schedule for limited periods would tend to reduce the present amounts of compensation. The simplified method of determining the duration of disability should offset in considerable measure additional outlays to meet the increases in compensation. We also commend the provision permitting transfer of any unpaid balance of compensation for specific losses to dependents of the disabled employee where before receiving the total he dies from some cause other than the injury.

The Government should lead the way in protecting its employees against occupational hazards. Its employees do not have available to them the pressure devices available to workers in private industry, and the Federal Government itself should show it is responsive to the needs of the general welfare by not lagging behind any of the States in the workmen's compensation field. The removal of the ceiling and the raising of the floor for monthly payments goes far toward achieving this goal. The minimum of \$112.50 per month for total disability is based on a salary of substantially \$1 per hour, the minimum living wage under present economic conditions. However, this floor has a trap door which permits lower compensation if the employee's monthly pay is less than \$112.50. This trap door should be sealed because no such substandard pay scale should be espoused by the Government. Furthermore, in the case of totally disabled workers the minimum compensation is hopelessly inadequate to enable even the single worker to live in anything but abject poverty; if he has dependents his plight is worse. The floor should be raised to \$165.

On the other hand, the present bill does manifest appropriate leadership in this field by increasing the basic compensation of a totally disabled employee by 8½ percent of his monthly pay, and of a partially disabled employee by 8½ percent of the difference between his former pay and present earning capacity, where the employee has more than one dependent.

Too short a period of compensation is specified for the particular injuries listed in the bill. Some State laws are much more generous, and the Federal Government should adopt a standard at least as favorable as provided in any State law. Also, too long a duration of disability is required before the 3-day waiting period is compensated. Government Workers' Union recommends that the first 3 days of disability be compensated when the disability period runs for 1 week. Even this provision is not as favorable as certain State laws.

GWU urges the deletion of the provision permitting the administrator to reduce compensation for a disabled employee over 70 years of age. Workmen's compensation is designed to be a partial substitute for the employee's loss of

earnings, and is thus not related to his age. Since Government employees must retire at 70, it is inconsistent to assume that such employees have a duty to labor and that their presumed pay should therefore affect their compensation. Such elderly disabled employees are unlikely to have savings and require greater assistance, attendance, and medical care as a result of their age.

Increasing to \$75 the maximum allowance which can be made for a person requiring an attendant is appropriate, though hardly adequate in the light of the increased cost of such services. GWU recommends that the section be amended to permit an allowance for attendance which is necessarily, though not constant, as in the case of a blind person who requires assistance only outside his home or office.

GWU approves and supports the provision of an additional allowance for persons undergoing retraining at the Administrator's direction. The provision for reducing compensation if the disabled employee fails to take retraining when so directed would be improved by limiting it to those under 65. Normally, those employees over 65 can be retrained only with difficulty and even then have little chance of obtaining employment.

In the interest of economy, GWU suggests that the funeral allowance be increased only to \$300 instead of \$400. Experience shows that the cost of funerals to the family increases with the amount of funeral benefits provided by insurance or by law, so that the additional amount is not likely to benefit the family of the deceased employee.

Approval of the head of a department is no longer required for an employee to elect to use annual or sick leave before beginning to receive compensation (sec. 101 (b)). This change is highly desirable. However, the present language appears to require the employee so electing to use all or none of his leave at the beginning of his disability period. The wording should be changed to permit him to use all or such part of it as he chooses.

The increase in compensation for employees previously disabled (40 percent for those disabled before January 1, 1941, and 10 percent for those disabled between that date and July 1, 1946) is also urgently needed in order to meet at least part of the increased cost of living. GWU urges that this principle be expanded to provide for over-all adjustment of compensation and retirement pensions in order to prevent hardship resulting from increases in the cost of living. We strongly recommend that the committee consider this widespread problem at the earliest possible moment.

Finally, GWU approves the extensions of coverage embodied in the amendments. Our position is that discrimination or inequality of treatment among employees of the Federal Government is never justified, and that the goal of the Congress should be the elimination of such inequality.

In conclusion, GWU wishes to express its appreciation for the opportunity to present its views, and to commend the committee for making substantial progress toward the formulation of an excellent employees' compensation program.

Mr. BAILEY. We now have Mr. Gowen. Will you come up, Mr. Gowen, and make your statement?

TESTIMONY OF LEO F. X. GOWEN, CHEMIST, THE NAVAL ORDNANCE LABORATORY, WHITE OAK, MD.

Mr. GOWEN. My name is Leo F. X. Gowen. I am a P-3 chemist employed at the Naval Ordnance Laboratory, White Oak, Md. My place of residence is 6832 Shepherd Street, Hyattsville, Md.; phone, Appleton 0172.

On September 30, 1947, while testing experimental components for use in Navy life-raft markers, an explosion occurred which resulted in (1) the loss of my right arm 3 inches above the wrist; (2) impaired vision in my left eye; and (3) facial and hand scars.

The reason for my presence is to discuss the retroactivity of the scheduled disability clause of the proposed bill, H. R. 3191. Proposed compensation schedules for injuries similar to those which I have received are covered in section 104 of this bill. However, section 303 of

the same bill indicates that these payments for permanent partial disability shall apply retroactively only to cases where the injury occurred within 1 year prior to the enactment of this act. This provision eliminates those of us whose injuries in recent years brought about consideration for changes in the Federal Compensation Act. I feel that the greater the period of retroactivity that can practically be considered, the more just the law will be. The recent war and conditions since then have brought about the necessity of Federal employees engaging in hazardous occupations. I believe that a fair consideration of the retroactive clause would include this period.

I do not want to burden the discussion with facts concerning expenditures, life-long discomforts, and the reduced security to my family and myself which the accident brought about. Briefly, I want to point out that I received no compensation for my losses. I used accumulated annual and sick leave during my convalescence because I could not support my wife and children on the \$116 which I would have received under the Compensation Act.

The accident has limited the positions which I might be otherwise qualified to fill and this can and may obstruct my professional advancement. I have been refused certain types of insurance which would increase the security of my growing family.

In closing, I would again like to stress that I strongly feel that those of us who because of our injuries were instrumental in focusing attention on the inadequate Federal compensation law should not be excluded from the benefits of the new law.

Thank you, Mr. Chairman and members of the committee.

MR. BAILEY. Mr. Gowen, your suggestion is that the retroactivity should, probably, go back to the beginning of World War II?

MR. GOWEN. That or further, whichever would be practicable.

MR. BAILEY. All right. Do you have any questions of Mr. Gowen, Mr. Burke?

MR. BURKE. I would like to ask if you feel that the retroactivity should go back, probably, so as to be coincidental with or about the start of the national-defense program, due to the fact that that time was pretty much the time when there was a great increase in the type of work that was more hazardous?

MR. GOWEN. I think that is true.

MR. BURKE. At the time of your injury, of course, you received medical attention and so on, but you received no compensation whatever for loss of member, as such?

MR. GOWEN. That is correct.

MR. BAILEY. Mr. Wier?

MR. WIER. No questions.

MR. BAILEY. Mr. Velde?

MR. VELDE. Did you ask him to file a complaint against the Government?

MR. GOWEN. No; I did not. Under the Compensation Act, I just have taken what was given to me under that act, and I have made no move to do anything otherwise.

MR. VELDE. Did you pay a lawyer in regard to it?

MR. GOWEN. No; I did not.

MR. VELDE. Of course, we realize the difficulties brought about by extending retroactivity for a period of years. That is, if a person was injured in 1940 or a person was injured in 1935, he would feel the

same way that you do, I suppose; he would want it extended to cover his particular injury.

Mr. GOWEN. Yes.

Mr. VELDE. I agree with you, though, that the vast majority of injuries that have not been compensated are those that have been sustained since the commencement of the World War II, and I do believe that they should be made retroactive to include at least a major portion of that period.

I might suggest, though, that you see an attorney about this injury which happened to you—was it 2 years ago?

Mr. GOWEN. Approximately 18 months ago.

Mr. VELDE. Possibly there might be some settlement, even though this act has not been made retroactive, in your particular case.

Mr. GOWEN. I see, sir, that under the Compensation Act, which is supposed to take care of Government employees, if you once receive settlement such as that, outside of the compensation law, you are no longer eligible for any benefits under that law.

The point I want to make is that if this injury became more serious, which often happens, for example, the amputation must be continued up further and you are hospitalized again, or your arm may go bad or worse, you would have no claim, as I understand it, under the compensation law.

Mr. VELDE. I think you are right, you are probably estopped from further claims for it.

Mr. GOWEN. And I think that the law should take care of you; I mean, if it is a good and just law, it should take care of you and not have you eliminated from the rolls.

Mr. VELDE. I wonder if you would mind describing the explosion or the accident a little bit further; there is the possibility that you could have sued some fellow employee for it.

Mr. GOWEN. No; I do not think so. That was experimental work. In experimental work, you are using the unknown; you are attempting to bring out new things, you see.

Mr. VELDE. What I am getting at is the possibility that one of your fellow workers may have been negligent or the Government was negligent itself, and you could establish a claim on that basis.

Mr. GOWEN. I really would not care to say. I do not know.

Mr. VELDE. All right.

Mr. BAILEY. Are you through?

Mr. VELDE. Yes.

Mr. BAILEY. At this time, for the information of any witnesses who might be present, the House is in session as a Committee of the Whole and, therefore, it is a violation of the rules to continue the hearing.

Mr. Walter L. Disbrow has the privilege of coming forward and filing a statement with the committee for his organization, which statement will be included in the record.

(The statement referred to is as follows:)

STATEMENT OF WALTER L. DISBROW, PRESIDENT, RETIREMENT FEDERATION OF CIVIL SERVICE EMPLOYEES OF THE UNITED STATES GOVERNMENT

My name is Walter L. Disbrow. I am president of the Retirement Federation of Civil Service Employees of the United States Government.

The vast majority of our members are employed in the navy yards, arsenals, and air stations and are necessarily exposed to the hazards of employment of a diversified character.

Naturally, they are interested in improving the Compensation Act in line with our present-day pay scales and other acts that are correlated, to the end that injuries sustained in the line of duty will allow them comparable benefits to the end that they may choose the law that properly should apply to their injuries and not be compelled, for economy reasons, to accept the benefits of other laws.

By resolution of our February 1949 convention, the general character of the bill under consideration was unanimously endorsed. We therefore place our organization on record as in favor of this bill.

Mr. BAILEY. There will also be included in the record a statement from Henry Anderson, on behalf of the New Jersey Affiliated Postal Employees Legislative Committee.

(The statement referred to is as follows:)

STATEMENT OF HENRY ANDERSON, CHAIRMAN, ON BEHALF OF THE NEW JERSEY
AFFILIATED POSTAL EMPLOYEES LEGISLATIVE COMMITTEE

My name is Henry Anderson. I am a letter carrier at Perth Amboy, N. J., and I am also chairman of the New Jersey Affiliated Postal Employees Legislative Committee, representing 11,000 employees of the various branches of the postal service, consisting of letter carriers, postal clerks, railway mail clerks and supervisors, and their auxiliaries, all members of the American Federation of Labor.

I appear before you this morning to present testimony in favor of the Lesinski bill, H. R. 3191, a bill to adjust the Compensation for Injury Act of April 1925. This bill has great merit and I hope your honorable committee will report favorably on it.

When Public Law 134 and amendments thereto was enacted recognizing the need for increased salaries for Government employees, no corresponding increase was allowed for compensation.

The maximum allowance under the present law is \$116.66 per month, which was based on two-thirds of \$2,100, which was the annual salary for postal employees in 1925. While this amount was sufficient at that particular time, passage of H. R. 3191, increasing the monthly payments to \$225, plus the other improved benefits embodied in the bill, would result in a more equitable adjustment to present-day conditions. The maximum allowance of \$116.66 a month under the present law is not sufficient under conditions today to maintain a man in normal physical condition, yet when a man is disabled in line of duty he is expected to meet his ordinary everyday expenses plus the added cost of medical assistance as a result of his injury.

It is our considered opinion that this bill warrants your earnest consideration and we urge that it be favorably reported at the earliest possible moment. We wish to take this opportunity to thank you and the members of your subcommittee for the privilege of presenting our views.

Mr. BAILEY. We have a request from Congressman John Kee, of West Virginia, that he be permitted to file a statement relative to a disability case with which he is familiar. Without objection, the statement will be received and made part of the record.

(The statement referred to is as follows:)

STATEMENT OF HON. JOHN KEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF
WEST VIRGINIA

Mr. Chairman and members of the committee, in connection with the hearings now being held on H. R. 3191, the "Federal Employees' Compensation Act amendments of 1949," I should like to call to your attention the case of one of my constituents, Mr. Eugene B. Powell, formerly of Princeton, W. Va., who is now living at 4347 Harrison Street NW., Washington, D. C. Mr. Powell was injured on September 18, 1935, while enrolled in the Civilian Conservation Corps at Natural Bridge, Ky. A dynamite explosion caused a stone to strike him behind the left ear, fracturing the left mastoid bone and severing the facial nerve, causing complete paralysis of the left side of the face.

On February 1, 1937, Mr. Powell was awarded the sum of \$1,000 for a 25 percent permanent total disability. This award was fully paid to him in small

semimonthly payments, which ended on May 13, 1939. Two slight additional awards, amounting together to the sum of \$49.46 were subsequently allowed and paid. The total amount of all compensation awarded and paid to Mr. Powell during the period of nearly 14 years since his injury, which was adjudged to be 25 percent total and permanently disabling, was the sum of \$1,049.46. He has not received anything whatever for the past 9 years.

At the time of his injury in 1935, Mr. Powell was 17 years old. He is now 31. During all of the intervening years he has suffered from long periods of unemployment, and from constant embarrassment and humiliation. As a result of the skull fracture which severed his facial nerve, he is afflicted with a strange and unusual distortion of the face, together with involuntary twitchings and movements of the facial muscles when he speaks. The injury is such as to attract immediate attention, making him more or less conspicuous and, quite naturally, bringing on speculation, especially among strangers, as to the cause of his affliction. This has been a continuous source of embarrassment, but still worse, it has made it extremely difficult for him to secure employment. Employers look at him, inquire into the cause of his condition and, learning that he suffered a fracture of the skull, refuse to employ him. Physicians will not pass him for employment.

I understand that for the first 7 years after the date of his injury he had only one fairly good job, but before taking this, he was required to sign a waiver of all claims for damages in case of injury. During World War II he tried desperately to enlist in some branch of the service, but was always refused.

Due to the present shortage of labor, he has succeeded in obtaining employment, but it is always questionable whether he would be able to hold a job when labor is plentiful. Furthermore, he has to miss considerable time from work because of chronic trouble with his left eye and left ear, which often involves expensive and time-consuming treatments. When he laughs or coughs, or even chews, there is always danger that his jaw will slip out of place, and twice recently he has had to go to the hospital to have it put back in place. For the past 9 years he has met all of these medical expenses himself.

I would gladly introduce and try to obtain action on a private bill for the relief of Mr. Powell, but I understand from the Judiciary Committee that several such bills, although they have passed the Congress, have not been approved by the President, on the ground that general legislation should be passed to take care of all these cases.

Such general legislation, I believe, is now being considered by your subcommittee, in H. R. 3191, which I understand would liberalize the provisions of the Employees' Compensation Act of 1916, as amended. As the bill now stands, however, I believe it would provide increased benefits for certain persons injured within 1 year prior to the enactment of the act, but would give no relief to persons injured earlier. On the face of it, this would appear to be grossly unfair, and I am confident that it will be the will of the subcommittee and of the Congress that this injustice should be wiped out by making the liberalizing provisions of H. R. 3191 retroactive to include those unfortunate individuals who have already endured years of hardship through injuries sustained while in the service of their country.

The case of Mr. Powell is, in my opinion, one deserving the utmost of sympathetic consideration. I have long known him personally, have on many occasions taken up with authorities the matter of securing for him additional compensation and have made many other efforts to help him. The problem has been to find a Government agency or department which has or will agree to assume jurisdiction.

This man suffered an injury so peculiar, and yet so serious, that the extent of his disability caused thereby is difficult of determination. It will be noted that in 1937 he was voted as being 25 percent totally and permanently disabled. That was evidently before he developed all of the nervous after-effects causing the terrible facial distortions from which he has for years so continuously suffered. Also, at the time of the rating as above, it was possibly not foreseen that the man would, through all these same years, suffer from repeated dislocations of his jaw. Again, no one could have possibly known that the man's facial distortions would not only deter people from employing him, but would, as it has done, bring about his discharge, even after he had been employed.

This man has my deep sympathy. I am not, of course, certain that it is possible for him to be helped through the legislation now under consideration by your committee. Frankly, I feel that this is doubtful. I recognize the practical

impossibility of providing aid for one exceptional case in legislation designed for Nation-wide coverage. I am bringing this case to your attention, however, in the hope that, happily or by chance, this unfortunate and deserving citizen may be aided.

Mr. BAILEY. The committee will now stand adjourned until 10 o'clock tomorrow morning.

(Whereupon, at 11:15 a. m., the subcommittee adjourned until 10 a. m., Wednesday, April 13, 1949.)

FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1949

WEDNESDAY, APRIL 13, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10 a. m., Hon. Adam C. Powell, Jr., presiding.

Mr. POWELL. The committee will kindly come to order.

Mr. Luther Steward, president of the National Federation of Federal Employees, asks permission to file a statement. Without objection, it is so ordered.

(The statement referred to is as follows:)

STATEMENT OF LUTHER C. STEWARD, PRESIDENT, NATIONAL FEDERATION OF FEDERAL EMPLOYEES, IN SUPPORT OF H. R. 3191

Mr. Chairman and members of the committee, while the purpose and intent of the Employees Compensation Act has been wholly commendable, the benefits granted to employees injured in line of duty were inadequate at the time of the original enactment and have become increasingly inadequate with the passage of time, so that a complete overhauling of the statute is not only vitally necessary, but long overdue.

H. R. 3191 undertakes a comprehensive revision of the existing statute, designed to fix its benefit provisions on a present-day realistic basis, and, on the basis of experience, proposes improvement in certain procedures that will facilitate the administration of the law and provide a simpler and more equitable method of determining benefits.

We feel that the Lesinski bill is fair in its provisions and we wish to be recorded in favor of H. R. 3191 and urge upon the committee early and favorable action on this important legislative proposal.

Mr. POWELL. Mr. George Riley, American Federation of Labor. Is he present?

Mr. STINSON. He is not here now.

Mr. POWELL. Mr. Leo George, president of the National Federation of Post Office Clerks?

Mr. STINSON. He is not here.

Mr. POWELL. Mr. Roy Eldean?

(No response.)

Mr. POWELL. Mr. Leon F. Kneipp.

Mr. KNEIPP. I am here, sir.

Mr. POWELL. Will you state your name and organization, Mr. Kneipp?

TESTIMONY OF LEON F. KNEIPP, EXECUTIVE OFFICER, ORGANIZATION OF PROFESSIONAL EMPLOYEES OF THE UNITED STATES DEPARTMENT OF AGRICULTURE

Mr. KNEIPP. Mr. Chairman and gentlemen of the committee, my name is Leon F. Kneipp, and I am the executive officer of the Organization of Professional Employees of the Department of Agriculture. That organization is comprised of permanent employees of that Department holding positions in classification grades P-1, SP-6 and CAF-7, and up to P-9 and CAF-15. Its present membership is about 2,900; 800 plus in the Washington area and 2,000 plus throughout the various States and Territories. The organization has been in existence for 20 years. During the past 15 months I have been its executive officer. In that connection, I should emphasize that I am speaking only for the organization, and that my remarks are in no way an expression of the official views of the Department of Agriculture.

The members of the organization regard the enactment of the bill (H. R. 3191) as more important than another general pay raise. At least, at their annual meeting last January they decided not to advocate another general pay raise unless or until the cost-of-living index rose appreciably above 1948 levels; but they did decide strongly to advocate enactment of a disability compensation bill more nearly in accord with current economic circumstances and standards of living than is the law now in effect.

The professional members of the Department of Agriculture probably are as provident and self-sufficient as any other group. They put their savings into assets on which they can draw in time of stress; they believe in life and health and accident insurance; they avoid unnecessary risks and hazards. But the average Government worker is seldom financially self-sufficient to prepare adequately for the maintenance of his home and family should it be his misfortune to become disabled, temporarily or permanently, to such a degree that his earning capacity is greatly reduced or totally destroyed. The thought of the totally inadequate compensation in such a contingency now afforded by the present law is constantly disturbing to the efficiency and morale of the average professional employee of the Department.

The accident rate of the Department of Agriculture is not abnormal. For the year 1948 the total number of reported cases was 3,493; of which 1,672 were approved as lost-time cases. The frequency rate was 10.7 per million man-hours; the severity rate, 0.89 per thousand man-hours. The number of deaths was 16. Nevertheless, the risk or hazard is considerable. Much of the work is in rural or mountainous territory, over third- or fourth-class roads, or in forests, or involving heavy mechanical equipment, or in slaughterhouses, or with livestock, or parasites or viruses or chemicals; often during inclement weather. There is widely present a potential threat of loss of limb or vision or faculties sufficient to warrant real apprehension. The employee's official duties may require him to expose himself to such hazards whereas other persons could refrain from such exposure.

When the present maximum limit of \$116.67 was fixed, the average salary rate was \$1,800 per annum; now, the average salary in Agriculture is above \$3,000. Then, the moral and financial responsibility

of employers to employees seriously or permanently disabled in the course of their employment was somewhat of a new doctrine, not firmly established nor widely accepted; now it finds wide acceptance in private industry and enterprise. The present maximum limit thus is wholly outmoded. No man can drag out years of major or complete physical disability or go to his Maker, with resignation if he is tormented with the thought that all that stands between his dependents and charity is a sum amounting to one-third to one-sixth of what he was able to earn prior to his disability.

The bill (H. R. 3191) will do much to alleviate the condition that now exists. Perhaps it could do more and yet not do too much. For example, a member of this subcommittee has pointed out that disabled persons sometimes have to employ lawyers to press their claims, the legal fees absorbing a considerable part of the disability allowance, so that additional provision for such legal fees might be equitable.

Others have called attention to the fact that existing prosthetic devices, partial dentures, eyeglasses, artificial limbs, hearing aids, and other devices may be destroyed or damaged as a result of an injury while on the job, through no fault of the employee, and that provision for the repair or replacement of such prosthetic devices would be equitable and justified. Others have expressed the view that where an employee is eligible for retirement for age under the Civil Service Retirement Act, and also sustains a compensable disability, the requirement that he elect one form of compensation or the other but cannot have both is of questionable equity.

His retirement compensation, if based on less than 20 years of service, may be inadequate to maintain him and his family unless he could supplement it by some form of profitable employment; but the disability sustained may totally preclude such postretirement work. On the other hand, the disability compensation may be insufficient to maintain the employee and his family at a decent level of subsistence. Were credit allowed for both retirement and disability, a reasonably secure economic future would be practicable.

However, the Organization of Professional Workers of the United States Department of Agriculture regards these considerations as secondary to the main issue. H. R. 3191 covers the most important and urgent needs of the situation which now exists. Its early enactment would do much to eliminate such inequities and hardships as seem to be inevitable under present limitations of law.

The organization feels that the members of the Committee on Education and Labor have been sympathetic and receptive in their consideration of the problem and will develop the most liberal and equitable solution that is practicable in the circumstances.

Assuming, therefore, that the bill, when reported out, will propose the largest reasonable measure of relief to those disabled or killed in the course of their official work, in my capacity as executive officer of the organization I strongly urge that the bill be enacted without undue delay.

Mr. Chairman, this opportunity to present these views is greatly appreciated, and I thank you.

Mr. POWELL. There may be some questions.

Mr. Kneipp, you have made three, in my opinion, very constructive comments on the bill. Have you any proposed amendments to the

bill to cover these three items that you raise at the bottom of page 2 and the top of page 3?

Mr. KNEIPP. The viewpoint, Mr. Chairman, is this. We regard these things as quite desirable, but we hesitated to complicate action on the main bill by too strongly urging their immediate adoption, in order to emphasize the fact that this bill does not yet cover those points.

Mr. POWELL. There are members of the committee who agree with you.

Mr. KNEIPP. Yes, sir.

Mr. POWELL. And I am sure that, if amendments were suggested by your organization, they would receive favorable consideration on the part of some of us.

Mr. KNEIPP. If the opportunity existed, we could work out what we believe would be desirable amendments and submit them to the clerk of the committee.

Mr. POWELL. Will you forward them to the committee? You do not have to come back.

Mr. KNEIPP. We will be glad to do that.

Mr. POWELL. Very well.

Mr. BURKE?

Mr. BURKE. I quite agree with the statement of Mr. Powell that, if we do have those suggested amendments, I think they are very fine points.

One other point that I wanted to ask you about is this. Do you believe that the bill, as it is now written, sufficiently covers the occupational-disease phases? I notice that in your statement you do mention that, saying, "In slaughterhouses, or with livestock, or parasites, or viruses, or chemicals."

For instance, the type of individual you have in mind is the meat inspector, the livestock inspector, and so on?

Mr. KNEIPP. Yes.

Mr. BURKE. Suppose one of these men should, we will say, get the most horrible thing we can think of, trichinosis; that is compensable under the terms of this bill? I am very much interested in making sure that it is compensable.

Mr. KNEIPP. I think the assumption was that it would be. But, if there is any doubt about it, then certainly that doubt ought to be dispelled by specific language. And that is a definite type of hazard, of course.

Mr. BURKE. Oh, yes.

Mr. POWELL. Is that all, Mr. Burke?

Mr. BURKE. That is all.

Mr. POWELL. Thank you, Mr. Kneipp.

Mr. KNEIPP. Thank you, Mr. Chairman.

Mr. POWELL. Mr. Roy Eldean, will you state your name and organization, please?

STATEMENT OF ROY ELDEAN, VICE PRESIDENT, UNITED PUBLIC WORKERS OF AMERICA, CIO

Mr. ELDEAN. My name is Roy Eldean, and I am testifying as vice president of the United Public Workers of America, CIO. Having been a postal clerk for 23 years, I believe that I am in a position to

speak of the need for the enactment of this proposed legislation, not only as a representative of my union but on the basis of my personal knowledge and experience.

Many railway-mail clerks suffered severe injuries and death because of the use of wooden mail cars prior to 1916 when steel mail cars came into general use. The wooden mail car was usually placed between the locomotive and the baggage car, which was of steel construction. In wreck after wreck, the story was the same, the wooden mail car being crushed between the heavy engine and the baggage car. In the 1909 fiscal year, 27 mail clerks were killed, 98 seriously injured, and 617 incurred minor injuries. The passage of the act of September 7, 1916, can be attributed to a great extent to the deaths and injuries of railway-mail clerks. However, the passage of this act in 1916 was long overdue, for 31 States and 2 Territories had adopted workmen's compensation measures for employees in industry before Congress acted in behalf of Federal workers.

The Bureau of Employees' Compensation of the Federal Security Agency reports that in 1948 there were 68,174 injuries and 300 deaths caused by injuries among Federal employees. The United States Government has a responsibility to provide adequate compensation and care for its employees who are injured on the job, also to provide annuities to widows and children of Federal workers who die as a result of injury.

The present maximum monthly compensation for total disability is \$116.66. Surely, no one will contend that this is enough to maintain a decent standard of living for one person, to say nothing of a family of four. Today, the Bureau of Labor Statistics' data shows that a monthly wage of approximately \$290 is necessary for a minimum budget for a family of four. The Heller Committee of the University of California monthly budget for a family of four is approximately \$330.

Let me cite two examples of serious injuries sustained by Federal workers while in the performance of their duties:

Several months ago, a postal clerk in Bowling Green, Ky., lost both hands and the sight of both eyes as the result of the explosion of a bomb sent through the mails.

Jules B. Counts had worked as a chemist in Army ordnance for the past 9 years at a salary of \$4,900. Last summer he was assigned to work on a new type of explosive. On August 5, while conducting an experiment, there was a terrible blast. Both of Counts' hands were blown off above the wrists, and he also suffered severe cuts in the chest and head. As a result of these injuries, Counts receives \$116.66 monthly compensation, whereas he formerly received \$408.33 monthly salary as a chemist. He has a wife and a 3-year-old daughter. Counts has had to cash in his war bonds and spend his savings in an effort to make ends meet.

H. R. 3191 would liberalize the compensation provisions for employees injured in the performance of duty, or their dependents in the case of death, and would extend coverage of the law. H. R. 3191 is an admirable bill, and Chairman Lesinski and this committee are to be commended for the consideration of this worthy measure.

However, earlier in this session, Congressman Lesinski introduced H. R. 1236, which contains several features which might be incorporated in H. R. 3191. Section 4 of H. R. 1236 provides—

That in case of disability, partial in character but permanent in quality, which results in the loss of use of a member or function, or more than one thereof specified in the schedule in this paragraph * * * the compensation shall be 75 percent of his monthly pay.

Section 5 of H. R. 1236 provides—

That if the disability is total the United States shall pay to the disabled employee during such disability compensation equal to 75 percent of his monthly pay.

Section 6 of H. R. 1236 would give a widow with no children 50 percent monthly compensation, whereas H. R. 3191 calls for 45 percent.

A year ago, this committee reported H. R. 3239, which contained those features. I quote from Report No. 1750:

Numerous States in recent years have liberalized their compensation laws by providing for a larger percentage of salary payment to those injured on duty. H. R. 3239 makes a similar provision, increasing the percentage rate from 66⅔ percent to 75 percent. It was pointed out to your committee in the hearings that the State laws provide for minimum payments only. And, inasmuch as many firms and corporations now follow the practice of adding to the compensation payments, so that employees injured in the performance of duty receive full pay for the time they are off, your committee was of the opinion that the rate of pay should be increased.

I urge this committee to give consideration to these proposals.

Now, if I might have about 2 minutes, Mr. Chairman, I would like to bring to your attention a related problem which might require separate legislation. That is this: A Federal worker might be injured on the job, and, of course, he would receive compensation under the act of 1916. However, he could break his glasses, his clothing could be torn to shreds, or his wrist watch could be crushed, and there is no law under which he might be reimbursed for such loss. I can point out a couple of instances in the Chicago post office 2 years ago when I worked there. There was one instance where there was inadequate lighting. A mail handler earning about \$2,300 or \$2,500 a year stumbled over a hand truck due to the inadequate lighting. He fell on his face, had some bruises, and broke his glasses.

Now, it cost him about \$20 or \$25 to get a new pair of glasses. There was another instance of a parcel-post package, a heavy package, which fell off a conveyor belt going overhead, which struck a man on the forehead, and his glasses were broken.

I just would like to bring this to the attention of the committee. I think it is worthy of consideration perhaps in a separate bill.

Mr. POWELL. Are there any questions, Mr. Burke?

Mr. BURKE. I believe that it might be possible to include prosthetic devices under the terms of this. But as to any other loss, such as wrist watches, jewelry, or clothing, would probably have to be under some other bill. I think that is all.

Mr. POWELL. Thank you, Mr. Eldean.

Mr. ELDEAN. Thank you, Mr. Chairman.

Mr. POWELL. Is Mr. Riley or Mr. George here yet?

Mr. STINSON. Not yet.

Mr. POWELL. Mr. Willard Manning? Will you give your name and organization to the reporter, please?

**STATEMENT OF WILLARD MANNING, PRESIDENT, NATIONAL
RURAL LETTER CARRIERS' ASSOCIATION**

Mr. MANNING. Mr. Chairman and members of the committee, by way of introduction, my name is Williard L. Manning. I am president of the National Rural Letter Carriers' Association, an organization composed of regular, retired, substitute and temporary rural carriers, with a total of 33,498 members.

I wish to place our organization on record favoring the approval of H. R. 3191, a bill providing increased compensation and other benefits to employees of the Federal Government who are injured or killed in line of duty.

Rural carriers, of whom there are 32,500, travel approximately 1,500,000 miles daily, by automobile, serving their routes. While the number of rural carriers receiving injuries is small, when compared to the total number of carriers employed, it is of vital interest to those who are unfortunate enough to be injured or killed that they and their families receive sufficient compensation on which to live. This is not true at present day prices, under the limitations of the present law.

In several cases which have come to my attention from rural carriers who were injured in the line of duty, they have been forced to take sick leave rather than accept compensation because they could not maintain their families on the small amount of compensation which could be paid under the law. This resulted in the depletion of their accumulated sick leave and in two cases called to my attention recently, shortly after the carriers were able to return to work after accidents, they became ill and were then on leave without pay with no income for a period of 30 days each. Had the amounts provided by this bill been in effect, these carriers would have been able to accept compensation and would have had their sick leave available for actual illness.

Since September 1948, six cases of death from accidents which occurred in line of duty on their rural routes have been called to my attention. The most recent is the following telegram received, dated April 11, 1949, and I quote:

Allen R. Box, Rural Carrier No. 2, Ragland, Ala., was killed this morning in line of duty. Struck by truck.

(Signed) W. H. McCONNALD,
President, Alabama Rural Letter Carriers' Association.

We certainly hope, Mr. Chairman, that your committee will see fit to approve this bill.

I thank you for the opportunity to appear before your committee.

Mr. POWELL. Mr. Burke?

Mr. BURKE. No questions.

Mr. POWELL. Mr. Wier?

Mr. WIER. No questions.

Mr. POWELL. Mr. Manning, have you any criticism of the bill at all?

Mr. MANNING. No, sir.

Mr. POWELL. Thank you.

Is Mr. Riley or Mr. George here yet?

(No response.)

There are three witnesses on our list to testify this morning who are not here. What would you suggest, gentlemen? Shall we recess for a few minutes?

MR. STINSON. Mr. Powell, there are a few other men representing organizations who can testify to fill in for the time being, if that is agreeable with you.

MR. POWELL. What are their names?

MR. STINSON. There is Mr. Rice, of the railway mail service.

MR. POWELL. We can use him. He is scheduled for tomorrow.

MR. WIER. Yes, but we shall not be here tomorrow.

MR. POWELL. That is right.

MR. WIER. We might as well hear him today.

MR. POWELL. That is right.

This is Mr. R. A. Rice, president of the Railway Mail Association.

TESTIMONY OF ROBERT A. RICE, PRESIDENT, RAILWAY MAIL ASSOCIATION

MR. RICE. Mr. Chairman and members of the subcommittee, my name is Robert A. Rice. I am president of the Railway Mail Association, having a membership of 27,600 railway postal clerks, who perform service in railway post office cars, terminals, transfer offices, and air-mail fields.

Our association heartily endorses the proposed amendments to the Compensation Act as provided in H. R. 3191. There have been no changes made in the basic provisions of the Compensation Act during the past 20 years, and we therefore believe that an upward revision of the benefit payments under the Compensation Act should be made to bring it abreast of present-day needs.

Our members, particularly those assigned to duty in railway post office cars, are exposed to death and injury perhaps more than any other group of Government employees, and an unfortunate series of disastrous railroad accidents during recent years, in which many of our members were killed or injured, clearly demonstrates the need and necessity for a more equitable adjustment of benefit payments under the Compensation Act. The Railway Mail Association, in conjunction with Post Office Department officials, are continually striving to reduce the accident rate in the railway mail service.

The biennial report of the committee on claims of the Railway Mail Association reveals the following information relative to the number of deaths and accidental injuries while on duty for the period 1936 to 1947.

The total for those 11 years is 33 deaths from injuries while on duty and 7,605 accidental injuries while on duty.

The major purpose of this bill is to bring benefit provisions for employees injured in the performance of duty, or their dependents in the case of death to the level necessary for reasonable protection against financial loss and the burden resulting from disability or death.

The present law provides for maximum monthly payments of \$116.66 and the minimum monthly payments of \$66.66 per month, and under prevailing salary brackets and the tremendous increase in the cost of living, such payments are wholly inadequate. H. R. 3191

provides for an increase in maximum payment to 66 $\frac{2}{3}$ percent of the employee's salary plus 8 $\frac{1}{3}$ percent when there are dependents, and minimum benefits of \$112.50 per month. It further provides additional compensation for permanent partial disabilities for injuries incurred while in the performance of an employee's duty.

The sponsors of H. R. 3191 have made an exhaustive study of needed changes in the Compensation Act and have conferred with numerous experts in the field of workmen's compensation. They have checked the provisions of similar laws in State statutes and it is believed that the changes recommended in H. R. 3191 will provide Government employees with disability protection as least equal to similar protection provided by State government.

We therefore express the hope that this subcommittee will recognize the need for basic changes in the Compensation Act as set forth in H. R. 3191, and favorably report the bill to the full committee. Final enactment into law will indeed establish a very sound principle of social legislation.

I thank you, Mr. Chairman, and members of the subcommittee.

Mr. POWELL. Mr. Burke, have you any questions?

Mr. BURKE. No, I think not.

Mr. POWELL. Mr. Wier?

Mr. WIER. Yes.

In view of the fact that you perhaps represent the group that has the most accidents, I want to ask you this. In this proposed bill, with which I presume you are familiar, aside from raising the benefits to an up-to-date proration of your salaries, is there anything else in this bill that affects the railway mail employees as such? Is that the only section of this bill that is beneficial?

Mr. RICE. You mean, just to raise the rate of compensation?

Mr. WIER. Yes.

Mr. RICE. I am not an expert on the entire bill, but so far as I am able to observe in there, that is about the only thing it does.

Mr. WIER. In other words, if I should ask you what is there in this bill that is beneficial to your organization aside from the adjustment in your compensation and death rates, would you say there is anything?

Mr. RICE. No, I do not believe so. But I will say this, Mr. Wier, that the adjustment in rates is certainly very important at the present time.

Mr. WIER. I am just setting that aside. I am thoroughly cognizant of rates. But I am wondering if there is any other additional cost to the Government in this bill as is that will affect your membership.

Mr. RICE. I do not think so. In the case of railroad accidents, these clerks that are injured in a train wreck do have the option of getting an adjustment from the railroad company or of coming under the provisions of the present Compensation Act.

Mr. WIER. I wanted to come to that.

Mr. RICE. Of course, usually in the case of serious accidents, the railroad company's adjustment is far superior to the compensation under the present law.

Mr. WIER. I was going to come to that, because it was mentioned to me that in addition to the adjustments of compensation here, if one of your men was in a wreck in which the mail clerk loses his arm in a crash, he could also sue the railroad.

Mr. Rice. He could sue the railroad company, but in case he does, then he is barred from any provision in here.

Mr. Wier. Any of the benefits.

Mr. Rice. He has his choice.

Mr. Wier. Yes. A witness explained that here yesterday. So the only thing in this bill with all of its pages, as a matter of fact, that is increasing the cost of Government is the increase in the compensation and the death rates?

Mr. Rice. Another very vital thing that it does is to compensate for the loss of an arm, leg, or so on, that we do not have under the present law. I will say this. In the Railway Mail Association, the organization of railway postal clerks, we have accident policies, and we pay under those policies a certain definite fixed amount for the loss of those members.

Mr. Wier. That is all, Mr. Chairman.

Mr. Powell. Thank you, Mr. Rice.

Mr. Rice. Thank you, Mr. Chairman.

Mr. Powell. Mr. Hallbeck?

Mr. Hallbeck. I am here, Mr. Chairman.

TESTIMONY OF E. C. HALLBECK, LEGISLATIVE REPRESENTATIVE, NATIONAL FEDERATION OF POST OFFICE CLERKS

Mr. Hallbeck. Mr. Chairman, I am appearing here this morning in place of Mr. Leo E. George, of our organization, who was scheduled to appear at 2 o'clock this afternoon. I made an attempt to find out whether the committee was meeting this morning, and evidently I got the wrong information somewhere; otherwise, either Mr. George or myself would have been here on time. I want to apologize to the committee for that delay.

Mr. Powell. The committee did not receive permission from the House to hold the hearings while the House was meeting because we did not think the House was meeting as early as 10 o'clock.

Mr. Hallbeck. I see.

Now, Mr. Chairman, I would be just as well satisfied to submit Mr. George's statement for the record and speak extemporaneously for a moment or two on the general content of it, if that meets with the approval of the committee, or I can read the statement, whichever you prefer.

Mr. Powell. The statement is about 1,500 words?

Mr. Hallbeck. Something like that.

Mr. Powell. We have the statement, of course. Without objection, we will accept it for the record, and we will have a few words from Mr. Hallbeck.

(The statement referred to is as follows:)

STATEMENT OF LEO E. GEORGE, PRESIDENT, NATIONAL FEDERATION OF POST OFFICE CLERKS RELATIVE TO H. R. 76, H. R. 1236, AND H. R. 3191

Mr. Chairman and members of the committee, I am Leo E. George, president of the National Federation of Post Office Clerks, an organization of clerks in first-, second-, and third-class post offices throughout the United States, Alaska, Hawaii, and Puerto Rico.

During the years 1946, 1947, and 1948 there were 20,458, 22,399, and 21,509 compensable injuries reported by postal employees. Of these, 8,161 in 1946

were post-office clerks and supervisors, of which 4 resulted in death. In 1947 there were 9,064 injured clerks and supervisors and 3 deaths. The break-down showing the number of each classification in the postal service is not available for 1948, but the percentage would be about the same.

The present law providing compensation for injury was approved September 7, 1916. It provided for benefits amounting to not more than 66⅔ percent of the monthly pay, provided that no benefit of more than \$66.67 per month should be paid. It also provided that the minimum benefit should be \$33.33 unless the employee's monthly pay amounted to less than \$33.33, in which event the compensation would equal the amount of monthly pay.

An amendment to the act of September 7, 1916, enacted February 12, 1927, increased the maximum benefit to \$116.66 and the minimum to \$58.33. An amendment was adopted May 13, 1936, providing that in cases of total disability requiring an attendant, \$50 per month additional may be allowed.

Aside from those two amendments, no appreciable liberalization of the compensation-for-injury law has been made since its enactment.

The maximum set in 1916 (66⅔ percent of the regular pay or \$66.67, whichever is the lesser) was based upon a maximum salary of \$100 per month or \$1,200 per year. Likewise the maximum fixed in 1927, which is still the maximum, was based upon a salary of \$175 per month or \$2,100 per year.

It is hardly necessary to call attention to the changes that have occurred since 1927 that make the maximum benefit under the present law woefully inadequate.

The obligation of the employer and the community to the worker injured in the course of his employment has become universally recognized. Every State in the United States, as well as Alaska, Hawaii, and Puerto Rico, have workmen's compensation laws. Many of them provide greater benefits than are possible under the United States employees' compensation law. Most of the State legislatures have before them at the present time proposals to increase benefits or to broaden their coverage or both. Some of these proposals have been approved by at least one branch of the State legislatures. These facts testify to the inadequacy of the benefits under the law that is here proposed to be amended.

I want here to express my personal appreciation and that of the members of the National Federation of Post Office Clerks to Representative Kenneth B. Keating, of New York, and particularly to Chairman John Lesinski of this committee, for their interest in this subject and to the members of the committee for giving their time and efforts to securing favorable action on it.

The bills, H. R. 76, by Mr. Keating; H. R. 1236, by Mr. Lesinski; and H. R. 3191, by Mr. Lesinski are similar in purpose although differing in details.

WAITING PERIOD

The present law provides that no compensation shall be paid for the first 3 days that an injured employee is in a nonpay status. If, at the time of injury, the employee has to his credit sick leave with pay or annual leave (vacation), he may elect to take such leave with pay or compensation. If he elects to accept compensation for injury, he receives nothing for the first 3 days. If he elects to take leave with pay and the period of disability extends beyond the period of leave with pay, he can receive no compensation for 3 days following the expiration of his leave with pay.

I have always contended that in the case of an injury sustained in the course of his employment (this law provides for compensation only for injury sustained in line of duty or while on Government property going to or returning from duty) he should not be compelled to be in a nonpay status during the time of his disability.

Neither H. R. 76 nor H. R. 1236 deals with this subject. H. R. 3191, however, provides in section 101 (a) that, if the disability exceeds 21 days in duration, payment shall be made for the first 3 days. That is a step in the right direction and an improvement over present law. I still contend, however, that there should be no waiting period in the case of injury on duty.

Section 101 (b) of H. R. 3191 provides that if the injured employee elects to take sick leave or annual leave that is to his credit, the time periods specified in section 101 (a) shall not begin to run until the period of leave with pay has ended. That would mean that an injured employee, after having exhausted all sick leave and annual leave to his credit, would still have to be in a nonpay status for 3 days unless his disability extends more than 21 days beyond the period of his leave with pay.

I believe that is inconsistent with the purpose of section 101 (a) and that, if the committee does not agree that the waiting period should be eliminated altogether, section 101 (b) should be modified to provide that compensation shall be paid if the disability extends to the minimum period provided in section 101 (a) including time covered by sick leave or vacation, or both.

INCREASED BENEFITS

H. R. 76 and H. R. 1236 both provide that the benefit for total disability shall be 75 percent of the employee's pay with a maximum of \$225 per month and a minimum of \$112.50 per month unless the monthly pay of the employee is less than \$112.50, in which case the minimum is the amount of the monthly pay. H. R. 3191 provides for a minimum benefit of \$112.50 for total disability and no dollar maximum, but a maximum of 66 $\frac{2}{3}$ percent of the regular monthly pay, except where there are dependents, in which case the maximum is 75 percent. The maximum benefit provided in H. R. 76 and H. R. 1236 is therefore preferable to the 66 $\frac{2}{3}$ percent provided in H. R. 3191. However, I want to reiterate my belief that an employee injured in line of duty should receive full compensation for loss of earnings, as well as reimbursement for necessary medical and surgical attention.

All three of the bills being discussed—H. R. 76, H. R. 1236, and H. R. 3191—provide for graduated benefits for partial disability that is permanent in character due to the loss of or loss of use of a part of the body or of its function. We hope the committee will approve that feature of these proposals. Practically every compensation-for-injury law provides for such benefits and this law should be liberalized as proposed.

All three of these bills provide for increased burial expense in case of death and for increased benefits to dependents. These are modest increases in view of increased prices and cost of living generally and should have the approval of the committee.

BENEFITS FOR DISEASES

The present law provides that benefits may be paid for diseases "proximately caused by the employment."

That language is so indefinite as to mean little in the way of securing benefits for diseases incurred or even disabilities incurred as a result of long-term exposure to conditions that inevitably exact a toll of impaired health and permanent loss of efficient functioning of body members.

Post-office clerks particularly are subjected to continual use of eyes under varying conditions of lighting and often with inadequate or improper lighting.

Improper ventilation and heating, involving exposure to extremes of heat and cold, result in numerous cases of respirational diseases. Thirty-nine of the States and Alaska, Hawaii, and Puerto Rico provide compensation for so-called occupational diseases. This law should be broadened to provide more adequate protection for the employees of the United States Government.

BENEFITS FOR THOSE ON ROLLS

On January 26, 1949, a young man working as a substitute clerk-carrier, at the time performing the duties of a clerk in the post office at Bowling Green, Ky., was handling a small package of mail when it suddenly exploded, removing both of his hands and both of his eyes. He is married and the father of a small child. He is permanently and totally disabled.

Under the present law he was given necessary medical and surgical attention. But he could receive no compensation for 3 days following expiration of any sick leave or vacation to his credit. Beginning with the fourth day after his being in a pay status, the maximum compensation he can receive is \$116.66 per month plus \$50 per month for an attendant.

He was a young man, 29 years of age, with the hopes and aspirations of a normal young American of that age. He could look forward to many years of useful service and the happiness that such service and association of a normal family bring.

Through no fault of his own, efficiently performing his duties as a post-office clerk, he was suddenly permanently maimed and disfigured. No longer able to engage in ordinary pursuits, no longer able through his own efforts to provide for himself and family, no longer even able to see his devoted wife and children. Could even payment of 100 percent of his potential earnings compensate him for his loss? I don't think it could.

I hope the committee will agree upon the increased benefits provided in these bills and that those increases will inure to the benefit of this man as well as all others at present on the benefit rolls of the United States Employees' Compensation Bureau.

Mr. HALLBECK. I want to say in general, Mr. Chairman, that the statement is an endorsement of the proposed legislation. We are very much interested in it. We believe that it is greatly needed by all postal and Federal employees generally.

The rates of compensation, as this committee has already been told, were set many years ago and bear no relationship today to the salaries of the employees or the purchase of those necessities of life.

I have here something that I received yesterday, after Mr. George's statement had been prepared. It is in the nature of an affidavit, sworn to, and I would like to read that, because I think it hits the subject closer than anything else I have seen. This is a statement of Mr. Richard A. Lesneski, of Hartford, Conn.:

My name is Richard Anthony Lesneski. I am 40 years old, married, with three children, the youngest born in 1944. I have been employed in the Bridgeport, Conn., post office since July 5, 1929, most of the time as a city letter carrier.

On November 20, 1945, I was delivering parcel post, using a 1930 Ford 1½-ton truck. While turning the loaded truck at the corner of West Broad and Beardsley Streets, Stratford, Conn., the left mudguard scraped the tire and caught it. It was impossible to straighten the wheel before the truck struck the esplanade and capsized. I was thrown into the street and the chassis of the truck fell across my ankle.

At the Bridgeport Hospital, my injuries were diagnosed as fractures of the ankle bones, rupture of the calf muscles, severely bruised knee and hip, and abrasions and contusions of the head. After 11 weeks, I was able to go home but my ankle and leg were still giving me considerable pain. In May 1946, I was sent to the Marine Hospital, Stapleton, Staten Island, N. Y., for diagnosis and possible further treatment. A Commander Michele, orthopedic surgeon, told me that my ankle was incompletely healed, and one leg an inch shorter than the other, due to atrophy and calcification of the hip bones. The doctor believed that an operation might remedy this but since it would require a year's absence from work, I declined due to my inability to support my family during the interval. As a palliative I was given a specially built shoe, which I am still wearing.

In April 1946, the local doctor had certified that I was able to do sedentary work by using a combination cast and brace, but due to orders against carriers working as clerks, I did not return to work until June, when I made a mutual transfer with a clerk. I worked intermittently from then until August 1946, when I was recovered enough to work full time. During my approximately 8 months' absence from work, I used all my sick leave and annual leave, 30 days, and received compensation at the rate of \$116.66 per month for a total of \$377.21. I was without either salary or compensation for 35 days. In order to support my family and myself, I used my savings of \$437, gifts of \$900 from my brothers, and \$1,000 I borrowed from the credit union. At present my debts total \$695.

The painful condition in my shortened leg still exists, but unless I could receive a larger monthly check during the time I would have to spend under treatment, I have no choice but to remain at work. I would like to be correctly and completely healed so that I could resume the job of carrier which I prefer. As it is, I can remain upon my feet for only short periods.

It is signed Richard A. Lesneski, and it has the notation:

Sworn and subscribed to before me this 5th day of April 1949.

EDMUND A. DORNE, *Justice of the Peace.*

Now, there is a young man who I think illustrates exactly the problem. When our people get hurt nowadays, they cannot afford to take the compensation provided by law because they cannot support a family while they are receiving treatment. I think that is a condition that cries out for action by the Eighty-first Congress, and I certainly

hope that some action will be taken to report this bill to the House and that the House will take prompt action on it.

I might say for the information of the committee that a similar bill was reported out of this committee last year. Unfortunately, it did not receive the House approval or action on the other side.

Mr. POWELL. Mr. Burke.

Mr. BURKE. I think the statement that you read from the gentleman in Connecticut points up pretty much one of the problems that this committee will have in considering the retroactive features of the bill. As I see it, there are three phases of the retroactivity that we will have to consider. First, of course, is how far back will it go; the second, what factors will be considered in retroactivity; and the third, whether retroactivity shall pick up on scheduled injuries and disabilities of those who have been injured prior to the enactment of the bill.

First of all, I am definitely in favor of considering this case immediately upon enactment of the act as part of the increased compensation and benefits, because it is a live case. That much of the retroactivity I do not think we will have any difficulty with. I would like also to be able to go back and pick up and allow the increased compensation for the time that he has lost in the past.

Mr. HALLBECK. I would certainly say that I think that is a desirable objective. I realize that there is going to be some practical difficulty in determining a date with any degree of exact justice on which retroactivity shall commence. Frankly, I do not know just exactly how to approach that problem.

Mr. BURKE. There have been three suggested dates as far as the degree of retroactivity is concerned. There has been 1 year. I believe that is written into the bill. There has been 5 years, and there has been that thought of going back to December 7, 1941, the start of the war, and also there has been the suggestion that we go back to the beginning of the national defense program.

Mr. HALLBECK. The date of the Selective Service and Training Act, for example, which was in 1940, as I recall it.

Mr. BURKE. I believe that the further back we can justify going in retroactivity, the better off we are going to be.

Mr. HALLBECK. I am certain that there is no member of any of the employees' organizations who would quarrel with your theory. Frankly, we want the most liberal legislation that it is possible to get in a case of this sort, because in all frankness, a man that is hurt on the job is certainly entitled to every consideration that the Government can give him. Whether you are hurt on the job or hurt on the battlefield, you are hurt in either instance in the service of your Government, and I think that a man is entitled to some consideration for that injury.

Mr. BURKE. That is all.

Mr. POWELL. Mr. Wier?

Mr. WIER. I think that retroactivity is going to be the debatable point. Applying the question to quite a neutral member of the committee it would resolve itself on how much the backlog was. If I were to make a motion here in this committee, Mr. Chairman, that we go back to December 7, 1941, which was the beginning of the war, I think from the evidence we have had here, it is the Government employee rather than the postal employee that is mostly affected by the war effort in injuries that he should benefit from. I think you would have

to base your argument for votes on the basis of how much is it going to cost us to go back to that time? What is the backlog? How many cases have you got on file that we will have to service or are entitled to appeal under this act?

I think that is where the question will be. If there is a big backlog, you will have some adverse votes. If the backlog is not too big, then it should not make much difference to a member of this committee or a Member of the House as to whether the figure in the bill is 1 year or 7 years.

Mr. HALLBECK. I would suggest this, Mr. Wier. I do not know definitely that he has it, but Mr. McCauley, of the Bureau of Employees' Compensation, can probably give you more accurate information than you can possibly get anywhere else, and I am sure he will be glad to cooperate with the committee in furnishing it.

Mr. WIER. I know that some members of this committee and some members of the full committee and some Members of the House will want to know what we are loading onto this bill when we go back to 1941, what is the over-all load. That is the thing that I am concerned with, as to whether you are going to get support for it with a big backlog.

Mr. HALLBECK. That certainly has to be taken into consideration. There is a practical aspect to that.

Mr. POWELL. I think that while we are on this point, we ought to ask our general counsel if he can get together for us two things: (1), how much this bill will increase the budget and, (2), how much the retroactivity would amount to, so that we will be prepared.

Mr. HALLBECK. As to the cost, I believe in the opening day's session they submitted an estimate. The cost is somewhere under \$7,000,000—\$6,900,000, as I recall it.

Mr. POWELL. Per year.

Mr. HALLBECK. For the cost of the legislation. It is remarkable that the cost is so low in proportion to the tremendous benefits that would be given to the employees.

Mr. WIER. I am sorry, but that argument does not appeal very often on the floor.

Mr. HALLBECK. I know what you mean. I have had some experience with that, Mr. Wier.

Mr. BURKE. I think that is a good suggestion. It is not only the length of retroactivity, but also the degree of retroactivity that is involved.

Mr. POWELL. Yes.

Mr. BURKE. That is, how many factors will be considered under retroactivity.

Mr. HALLBECK. I want to thank you, Mr. Chairman and members of the subcommittee.

Mr. POWELL. Thank you, Mr. Hallbeck.

Mr. POWELL. Mr. Riley?

TESTIMONY OF GEORGE D. RILEY, MEMBER, LEGISLATIVE COMMITTEE STAFF, AMERICAN FEDERATION OF LABOR

Mr. RILEY. Mr. Chairman, my name is George D. Riley. I am a member of the legislative committee staff of the American Federation of Labor. I have the privilege of bringing to your committee a letter

from President William Green. It is brief, and I should like to read it for the record:

Hon. JOHN LESINSKI,

*Chairman, House Committee on Education and Labor,
House Office Building, Washington, D. C.*

MY DEAR CONGRESSMAN: I wish to advise that Mr. George D. Riley, national legislative representative of the American Federation of Labor, has been assigned to speak briefly in support of H. R. 3191, now under consideration by your committee.

In addition to Mr. Riley's testimony, I ask that I be recorded as definitely favorable to the legislation. My energies were turned many years ago to support of workmen's compensation acts throughout the States and in the Federal Government.

Finally, as floor leader in the Ohio Legislature, I was successful in steering to conclusion the first State law in this vital and humane field. I have watched every development each year in improving the status of the injured workman, whether he be in public service or in private employment. Certainly we have come far since those first days in Ohio.

Regretfully, I realize that the United States Government is far behind in the procession in recognizing the needs of the man and woman disabled in the line of duty. The rates of benefits are far out of line in the light of today's costs of recovery. These rates have not been reviewed and modernized for 22 years.

The evident result has been that those of the labor force in the Government who are temporarily removed through injuries from their jobs have long been paying an appreciable portion of the costs of such injuries. I know that a Government is not so impersonal that it is ungrateful for services well done.

Thirty-five years elapsed from the time in 1881 when the American Federation of Labor first proposed disability compensation till the Federal Government finally got around to enacting a comprehensive compensation act in 1916, a year when we were on the verge of war. Yet, the Congress frequently has recognized the needs of those actively and continually employed in the Government service over these long periods by adjusting salary and wage scales. I suggest that this is a glaring inconsistency.

With all the prayerful earnestness at my command, I bespeak these words of full support of the purposes of H. R. 3191, confident that your committee and the Congress will do the needful and, without further delay, report out the bill with the least number of amendments.

With all good wishes, I am,

Sincerely,

WILLIAM GREEN,

President, American Federation of Labor.

Now, Mr. Chairman, if you will indulge me briefly there, I would like to pick up the spirit of President Green's letter to your committee and bring out a few points that I believe may be helpful.

My remarks, as I said, are in extension of the statement of President Green of the American Federation of Labor in his letter to you and which letter I have just presented for the record.

I appear in support of H. R. 3191 a bill to provide modern methods for recognizing the needs of those in the Federal Government civilian service who become disabled through injury in line of duty.

Mr. Chairman, may I have permission at this point to have inserted in the transcript the record of the American Federation of Labor in advancing the cause of those who are injured in line of duty?

Mr. POWELL. Is there any objection?

It is so ordered.

(The document referred to is as follows:)

RECORD OF THE AMERICAN FEDERATION OF LABOR IN SUPPORT OF DISABILITY
COMPENSATION AND WORKMEN'S COMPENSATION LAWS

1881—The year in which the American Federation of Labor was founded, one of the first acts of this organized labor movement was to adopt a plank in its

platform declaring "stricter laws should be enacted making employers liable for all accidents resulting from their negligence or incompetency to employees."

1882—The legislative committee was instructed to concentrate efforts on enactment of an "employers' liability act by various legislatures which will give employees the same right to damages for personal injuries that all other persons have and make common employment no longer a legal defense for action for personal injuries."

1889—Approved Massachusetts law, as "every employer ought to be liable for injuries of employees while obeying orders of superintendent or foreman."

1902—Urges enactment of laws to protect disabled workmen and provide national insurance for their assistance during enforced idleness.

1905—Urged Congress to enact law to relieve employees in navy yards, stations, and gun factories who are debarred from recourse to civil courts for damages in case of injury. Increase in accidents because of progress in machinery construction and careless methods of employers necessitated securing compensation laws in various States.

1906—A. F. of L. aided in securing Federal limited liability law for railroad employees exclusively.

1907—Approved bill, compensation to Government civilian employees injured while at work.

1908—Law enacted compensating Government civilian employees injured at work.

1909—A. F. of L. recognizes that workmen's compensation laws must become settled policy of Government. Must also give assistance to legislation that will remove or modify unjust bars to recovery founded on doctrine of "assumption of risk, contributory negligence, fellow servants, and waiver of rights."

1910—Employers' liability law amended and commission created to inquire into extending employers' liability and the extension of compensation.

1911—Establishment of a national system for prevention of industrial accidents in preliminary stage.

1913—Twenty-one States have compensation laws. A. F. of L. urges compensation of each day of injury more adequate death benefits instead of 1 year's pay as at present, payments to continue longer than 1 year, if injuries are serious, partial and total disability results.

1914—A. F. of L. declared compensation rates should be based on not less than 66⅔ percent of wages received by the injured. Further, determined efforts should be made to lengthen the time payments for accidents resulting in amputations. Also, that widows whose husbands had been killed in industries should receive compensation throughout widowhood; that additional rates should be paid on the basis of the number of children under 18; that the administration compensation laws should be supervised by State commissions; that as the profits of liability insurance companies are derived entirely from funds collected for payment of compensation to injured workmen, every effort should be made to secure compensation laws entirely eliminating employers' liability insurance companies. The 1913 A. F. of L. convention declared that "the right of action to recover damages for personal injuries shall never be abrogated and the amount recovered shall not be subjected to any statutory limitation" was reseeded. Instead this declaration was made "in view of the fact that the growing tendency is to substitute in place of or supplement workmen's compensation laws for existing employers' liability laws, and for the reason that by this new method of compensating injured employees or surviving relatives or dependents, a great advance is experienced over the old system of reimbursing employees for injuries or death caused during their employment, we are of the opinion that if the constitutional proposal entitled "Personal injuries," be enacted, that such provision may be interpreted so as to interfere with enactment of workmen's compensation laws, and therefore, upon further investigation recommend the above course in preference to the one recommended last year." Adopted in this convention was the statement that "the common law doctrines of fellow servant, contributory negligence and assumption of risks, so far as they affect the liability of a master for injury to a servant, or the liability of an employer to his employees, resulting from the acts or omissions of any servant or servants, employee or employees, of the common master or common employer, are forever abrogated. In the provision for a contract of employment expressed or implied made by any person by which any of the benefits of this constitution is sought to be waived, shall be null and void."

1915—The principles of workmen's compensation adopted in 1914 were reaffirmed with this addition "compensation to be paid for death or injury of oc-

cupational diseases." Seventeen States were reported to be without compensation or employers' liability laws. The A. F. of L. executive council was instructed to lend its aid to obtain a modern compensation law for Government employees.

1916—A comprehensive compensation law for Federal employees was finally enacted. The Congress was urged to enact compensation law for longshoremen injured or killed while at work, and to extend a bill providing compensation for accidents to employees in shipbuilding to the vessel after it reaches the water as well as on the ways.

1917—The A. F. of L. executive council secured an amendment to the judicial code and the State compensation laws then could be made to operate to protect workmen unloading vessels and other work of similar character, thus eliminating the possibility of workmen and those dependent upon them being made to suffer because of judicial interpretation as to lines of legal demarcation in injury cases surrounded by similar circumstances. The United States Supreme Court on May 21, 1917, had just decided that persons employed as stevedores were engaged in work of maritime nature and that injuries in the course of such work was maritime, and that the rights and liabilities of the parties in connection therewith were matters within the admiralty jurisdiction. The Court concluded that all such civil cases of admiralty and maritime jurisdiction were vested in Federal district courts and that a State could not apply its workmen's compensation law to employees engaged in this character of work.

1918—The A. F. of L. caused a bill to be drafted covering Federal employees unable to follow their usual avocations because of injuries. There was much legislative and judicial activity in 1918 and a series of legislative proposals to fill the gaps left by court decisions was prepared and submitted. The A. F. of L. expressed belief that trade and occupational diseases should be considered in law as well as in fact in obligation on industry and that those who contract for the employment of workers should be required to provide compensation to those suffering health impairments due to employment. The workmen's compensation maritime bill of 1918 was endorsed.

1919—Workmen's compensation laws needed amendment to provide adequately for those incapacitated by industry accidents or occupational diseases. The A. F. of L. sought to assure that the insurance fund derived from commerce and industry be paid in full to injured workers, and that State insurance must supplant old methods and prohibit the existence of employers' liability insurance operated for profit.

1920—Insurance feature of the Ohio workmen's compensation law was endorsed and it was urged that all State federations of labor endeavor to have similar provisions enacted in their respective States.

1921—By direction of the Montreal convention of the A. F. of L. a circular was sent to all State federations and the city central bodies urging that all workmen's compensation laws be amended by addition of the insurance feature similar to that of the Ohio Workmen's Compensation Act which prohibited private casualty companies from operating. Reports show there was agitation for workmen's compensation laws in those States not already having such laws and for amendments to those already in force. The A. F. of L. executive council was directed to assist the Missouri State Federation of Labor in defeating the enemies of workmen's compensation. It also was urged that all officers and union members read Senate Document No. 419 on workmen's compensation, prepared by members of the executive council. Further, it was recommended that the rates of compensation be increased to not less than 66⅔ percent of the wages paid and that the payments extend over a greater period where amputations are performed as a result of injuries.

1922—The A. F. of L. sponsored bill was introduced in the Congress to provide compensation to the injured both in industry and in the District of Columbia similar to the Ohio law. The A. F. of L. executive council was directed to aid Government employees in securing legislation increasing the compensation to beneficiaries under the Compensation—for injury—Act. The Ohio Compensation Act was reendorsed.

1926—The A. F. of L. took the position that occupational diseases should be defined in compensation laws as injuries and compensable as such.

1927—Some changes were brought about in the rates of compensation benefits in the Federal Disability Compensation Act. The A. F. of L. advised that there would be no let up in its determination to have a workmen's compensation law enacted that would be applicable in the District of Columbia.

1928—Since 1921 the labor organizations of the District have urged the passage of a compensation act containing a Federal fund to pay compensation to victims of accidents. Friends in Congress of insurance companies fought the bill. Prior to passage of the act, persons injured might sue in the courts, but as the employers had the three defenses, assumption of risk, contributory negligence, and fellow-servant, few ever obtained redress. And the little that happened to be obtained was eaten up by lawyers' fees.

The Central Labor Union of Washington therefore asked that the Longshoremen's Act be amended to include residents of the District. This bill became a law.

Much opposition has arisen because of the premiums charged by private insurance companies. The employers have bitterly fought a Federal fund and demanded that compensation policies be written by private insurance companies. They now see their mistake and it is believed they will themselves demand that Congress amend the act to create an exclusive Federal fund.

1929—Executive council urges that every delegate to this convention resolve to contribute their efforts toward the adoption by the four States without existing legislation (Florida, Arkansas, Mississippi, and South Carolina) of laws and regulations to protect the toilers in those States and a general effort be made everywhere to minimize the cause of accidents.

Resolution No. 26: *Resolved*, That the Brotherhood of Painters, Decorators, and Paperhangers of America, in the fourteenth quadrennial general assembly, assembled in Denver, Colo., initiate measures to present to the Congress of the United States that will safeguard the workmen and determine the cause of this disease (occupational dermatitis) and eliminate the products from the painting industry; and be it further

Resolved, That the forty-ninth annual convention to the American Federation of Labor endorse the principle involved and the executive council be requested to lend assistance in securing such legislation as will eliminate this abuse.

1930—Efforts were made to amend the longshoremen's compensation law. Also it was recommended that the executive council continue its activities toward the speedy enactment of the pending legislation of the establishment of a safety bureau in the United States Department of Labor. Unanimously adopted.

1931—Resolution 66: Whereas the United States compensation law as interpreted by the Compensation Commission, does not allow or provide for loss of compensation through inability to continue trade or rating caused by injury or disease in following such trade or rating and which necessitates change of employment at a loss of earnings; and do not permit compensation for rehabilitation when change of vocation is found necessary to preserve health and life: Therefore be it

Resolved, That the American Federation of Labor in convention goes on record and instructs its officers to urge upon Congress the amendment of the United States compensation law to provide compensation where physical condition necessitates change of employment at lesser wages, so that no loss of earnings will occur through such change, and that the amendment provide further for compensation where rehabilitation is found necessary, and that such rehabilitation be provided. Unanimously adopted.

Taken from the executive council's report: Sanitary conditions in industry and regulations for special industries have been a part of the federation's active endeavor.

1933—Whereas the United States Employees Compensation Commission was originally established largely at the urging of the American Federation of Labor to administer injury compensation laws covering Government workers, and has performed its important functions in a humane way, satisfactory to all concerned; and it was proposed as an economy measure to absorb the Compensation Commission into the Civil Service Commission, thus destroying its identity, impairing its usefulness, and robbing it of that official independent status so essential to a quasi-judicial body of its kind, which must of necessity be free from political and other extraneous consideration in reaching its judgments; and through enlarged authority now administers the Longshoremen's Compensation Act and compensation laws for the District of Columbia, thereby having jurisdiction in injury cases affecting thousands of workers outside the Government employment and in no way connected with the authority of the Civil Service Commission: be it

Resolved, That the American Federation of Labor in fifty-third convention assembled instructs the executive council to do all in its power to continue the

United States Compensation Commission in its present official status as an independent governmental agency. Resolution adopted.

Resolution No. 107: Whereas the Canal Zone Retirement Act discriminates against Canal Zone employees with respect to retirement for disability as compared with the provisions of the general retirement act; and

Whereas in equity, the more liberal provisions in connection with this matter contained in the Civil Service Retirement Act should be incorporated in the Canal Zone Retirement Act; Be it

Resolved, That the officers of the American Federation of Labor use every effort to secure the amendment to the Canal Zone Retirement Act providing that employees of the Panama Canal and Panama Railroad subject to the provisions of the Canal Zone Retirement Act shall only be required to establish proof of freedom from vicious habits, intemperance, or willful misconduct for a period of 5 years immediately preceding retirement in order to be eligible for retirement under the physical disability clause of the Canal Zone Retirement Act. Resolution adopted.

Part 3 under "Public works" says that every contract awarded under the authority of the National Industrial Recovery Act shall contain a provision requiring the contractor to furnish compensation insurance for injured workmen and to furnish proof of such to the contracting officer.

Part 4 under same "Public works" says that all work shall be carried on in a safe and workmanlike manner.

1934—On the section of the report of the executive council on workmen's compensation the committee reported as follows: "Your committee read with interest this part of the executive council's report, which sets forth development and the experience had in connection with workmen's compensation legislation for the District of Columbia, and which has resulted in an amendment being introduced in the United States Senate by Senator McCarran, providing for a State fund, which we are advised has the support of contractors who previously insisted upon private insurance carriers. This change in the attitude of employers toward State funds in this regard is encouraging and we recommend continued effort by organized labor to secure acceptable enactment assuring to workers adequate and reliable protection against injury or death."

Convention recommended continued effort by organized labor to secure acceptable enactment assuring workers adequate and reliable protection against injury or death.

This convention endorsed the resolution which called for study and for such legislative, administrative, and other action as may be necessary to prevent the use of any health-destroying conditions being permitted in industry.

1935—Resolution 115 called for Federal grants in aid to match appropriations for State-pooled funds for workmen's compensation to cover occupational accidents or diseases and outlined desirable Federal standards. In acting on this resolution the convention recommended the drafting and enactment of Federal and State laws to remedy the situation which then existed.

State federations of labor urged to continue their efforts to secure the enactment of adequate workmen's compensation legislation.

1936—The convention recommended the formation of committee of experts to draft a basic legislative program to provide uniform workmen's compensation. The convention also recommended that international unions and State federations of labor cooperate with such committee in sponsoring this bill in the several States. Convention called on Congress to enact safety legislation covering construction workers.

Convention recommended that the Federal Government create a commission to study and make recommendations for provisions in the law to include compensation and medical care for disability and occupational sickness among workers. The convention also approved a system of health insurance. The 1936 convention reaffirmed the action of the 1935 convention calling upon the convention to pay a share of the State compensation provided for victims of injury and occupational diseases in industry. This would affect only States which have State-pool funds. The convention also recommended continuous activity to secure legislation protecting victims of occupational diseases and to reduce occupational hazards to a minimum.

1937—Many amendments to workmen's compensation laws in the States were enacted during this year. Protest was made against the practice of some insurance companies operating in workmen's compensation fields and proper safeguards against such practices were called for by the convention.

The council reported that, in that time, 21 States and the District of Columbia provided occupational-disease compensation, of which only 9 were of the blanket-

coverage type advocated by the American Federation of Labor. The convention recommended that physical examinations of employees, incidental to the administration of workmen's compensation, should be made by either the State department of health or the body administering the law and that such examinations not reveal the personality of the employees so examined.

1938—The convention recommended continuance of efforts to secure enactment of a bill to provide compensation for injury or death to employees of contractors on Federal public buildings.

State legislation: Convention urged voters to favor a change in State constitutions (Arkansas) to permit legislators to enact a workmen's compensation law which would properly protect the workers of that State.

1939—Workmen's compensation and occupational disease, State: Convention recommended that workmen's compensation legislation be coordinated with the national social-security plan and recommended further that workmen's compensation, which was the first step in a social-security program, should be advanced and coordinated with provisions against other emergencies. The convention further recommended existence of the coverage of all labor legislation so that as many as possible may have the benefit of protection.

Revision of State laws: The convention recommended revision of workmen's compensation laws to include all types of industrial disability for disease as well as accident and the incorporating of workmen's compensation laws into a coordinative Federal-State system with adequate Federal standards covering the payment of benefits. The convention further recommended single Government insurance agency in each State to carry the insurance.

1940—State: Convention urged all State federations to endeavor to improve and strengthen their existing workmen's compensation laws and endeavor to secure laws providing for exclusive State funds.

State funds: Convention recommended that legislatures take action to amend the laws to achieve the true intention of workmen's compensation. The convention further urged the replacement of private insurers by single State funds. The convention further recommended that the federation and its affiliated unions renew their efforts to promote the real purpose of workmen's compensation by securing legislation which will preclude narrow, technical interpretations of the laws to the detriment of injured workers and will replace private insurers by single State funds.

1941—Convention committee urged continued efforts to strengthen and improve workmen's compensation laws; urged improvement of State safety laws; proposed amendment to Social Security Act to assure benefits for both permanent and temporary disability with additional cash benefits for medical care and hospitalization for workers and their dependents.

1942—Executive council reported improvements in workmen's compensation laws in some States, with increases in benefits and coverage extended to include silicosis and asbestosis.

Convention approved resolution urging increased compensation for Government employees where injuries or death occur. Resolution called attention to fact that benefits under United States Employees Compensation Act were fixed in 1927 and based upon average earnings at that time.

1943—Executive council reported strengthening of workmen's compensation laws during that year and that occupational-disease legislation was approved in Arizona, Oregon, Nebraska, Minnesota, and Michigan.

Convention committee urged that unions continue to press for uniformity of law and warned unions against setting aside any existing laws under guise of war emergency, which would render them ineffective.

1944—Recommended more uniform workmen's compensation laws. Also more uniform laws in prevention of silicosis and dust diseases and urged payment of compensation to workers suffering from such diseases in amounts equal at least to the present maximum.

1945—No convention because of war restrictions. Legislative report for year, however, called attention to inadequacy of workmen's compensation coverage and stated that while years ago we accepted the principle that industry should bear the cost of work accidents, yet because of our antiquated and weak workmen's compensation laws the injured worker, through wage loss and medical cost, is bearing almost one-half of the accident in addition to all of the human costs.

1946—Convention adopted report which recommended establishment of workmen's compensation committees in each State federation of labor which with the aid of competent legal experts would study State laws; keep in touch with

workmen's compensation Commissions to see that administration is kept on high level; right of workers protected; closer cooperation between United States Department of Labor and American Federation of Labor in creating more uniformity in workmen's compensation laws, eliminating special provisions which favor employers such as reduced amounts for silicosis cases, unusual proof for hernia cases, waivers, etc., cooperation with rehabilitation agencies.

1947—Executive council deplored weakening of State labor departments by transferring their responsibility for controlling health hazards in industry from the Labor Department to State health department.

Convention urged Executive council to sponsor Federal legislation to create a uniform safety code covering industry in commerce, and urged the setting up of uniform and adequate financial compensation for industrial accidents and occupational diseases, and urged support of international unions to this end.

1948—Executive council reported on low rates provided under workmen's compensation, in spite of gradual increases, stating that the laws in some 30 States still limit the weekly maximum to less than \$25 per week for a disabled workman.

Mr. RILEY. It should be noted that starting with its very first year, in 1881, the American Federation of Labor began campaigning for adequate benefits for injuries and deaths.

Mr. Chairman, I am sure no one is disposed to hang price tags on any portion of his body. No one would say that he is willing to sell his right hand or his arm up to the elbow or to the shoulder, or an eye or a foot or a leg.

I am sure that by now the case of a man in Bowling Green, Ky., has been brought to your attention as the most recent dramatic instance of how suddenly disaster can befall us. That clerk-carrier in the postal service is the victim of a dastardly maniac who mailed a bomb from an eastern city.

Not only has this man, William H. Osborne, lost both hands but both eyes are gone. What a bargain the Government gets for these two hands and two eyes, all for the price of \$116 a month. Surely none of us would sign a contract to part with these important members of the body for any price, much less \$116.

And while Osborne will receive an attendant's benefit of \$50 a month indefinitely, where can we get anyone as a full-time attendant for \$600 a year? The result has been that Osborn's union brothers, not alone because they have been shocked by such occurrence but because they have had to step in and do the job that the Government should do, have maintained funds for this stricken man's relief.

Osborne's case is only an example of what happens constantly in the Government service. There are the men and women in scientific research who have made themselves human guinea pigs in the laboratory, in defying spotted fever and many other forms of disease. There are the men in the law-enforcement and protective services—those who were injured in a break at Alcatraz. There are the men in the Federal Bureau of Investigation and in the Alcohol Tax Unit of the Treasury Department. There are others who some years ago contracted ink poisoning in the Bureau of Engraving and Printing. There are the letter carriers of the Nation who daily come face to face with all kinds of hazards, the barking dogs that do bite, and the railway mail clerks who find themselves in train wrecks.

There are the mechanics in the skilled trades in arsenals and gun factories and torpedo plants. All these and many more classes of employees have felt the cold hand of injury and death and their loved ones have grieved and been left to shift without proper attention on the part of the Government to their needs.

This legislation has the full support of the American Federation of Labor which stands four-square with all 106 of its affiliated unions in pointing to the long-overdue urgency for its passage.

H. R. 3191 is a realistic measure. It is geared directly to the wage and salary standards of the Government service. It is a percentage bill that places proportionate standards on injury and death benefits in line with the standards placed upon compensation for active service.

This bill is directly related to good public policy. It is imperative that the Federal Government look at these cases of helpless men and women in a clear perspective. This is a morale factor that can be matched in no other way than for the Government to stipulate that when its employee shall have been laid low by occupational disability through disease or injury, the least it can do is to add the personal touch even of an understanding and appreciative Government that will not walk away from such person in their hour of greatest need.

It is not good for private funds to do the work that belongs to the Government. I hope that everyone of us will agree that the need for a schedule of payments on a percentage basis so long delayed now can be had through affirmative action of your committee.

This committee of course will have some question of how much this legislation will cost, which is natural. By now, I believe the estimate has been presented to you. May I suggest that the cost will not be as much as it would have been a few years ago. The reasons are these:

1. There is a smaller number of persons employed by the Government than in 1943 or 1944. The average number in 1948 was 2,080,967 as contrasted to 3,211,516 in 1944.

2. The average age of employees probably is considerably lower now than it was when many retirements were postponed during the war and some retired persons were allowed to reenter the service for the war's duration.

3. A rather intensive campaign has been going on under the direction of Edward Herges, the Government's safety engineer. Even with the greatly limited facilities at his command, he has done a good job. He believes in safety and he practices it. His work has resulted in fewer casualties in the civilian force of the Government, considering the service as a whole. There are still some spots where safety probably is not taken seriously, but I believe if Mr. Herges can get the full recognition that he has earned he can help Congress further reduce the cost of H. R. 3191. In both the accident frequency rate and the severity rate, Mr. Herges reports splendid progress in their reduction.

But the Government service still has, and always will have, its hazards. Only last week, \$1,600,000 in jewels were mailed from Washington to New York. This is valuable bait for hijackers. Those who guard such shipments, though armed, are still prominent targets for bandits.

In the same week, a Government agent was reported missing and it was feared he had been slain.

It has been said that approximately 85 percent of the accidents in the postal system occur in 40 post offices. Based upon such report, the committee might have a general guide in pursuing its hope that

the greatest concentration of effort might be directed to eliminate the hazards that include accidents.

Last year there were more than 68,000 injury cases in the Government costing 15 cents per \$100 of the pay roll. This was a decline from 24 cents per \$100 in 1943. At the same time, the cost of compensation benefits declined from \$17,454,000 to \$8,759,000 in 1948.

Thus, when we speak of the cost of this type of legislation, it seems reasonable to consider the steps being taken to reduce the number of deaths and injuries. Prevention still costs less than cures and treatments.

Mr. Chairman, I appreciate your kindness and courtesy.

Mr. POWELL. I think it is very important to point out in connection with your testimony that even with the estimated increase of roughly \$7,000,000, the total cost will still be \$1,000,000 or \$2,000,000 less than the cost in 1944.

Mr. RILEY. I am sure that is true. That is quite logical.

Mr. POWELL. Mr. Burke?

Mr. BURKE. I would like to say in line with President Green's letter that I know that he is a specialist in workmen's compensation, and what he said in his letter is true, that he was a member of the Ohio State Legislature and was one of the prime movers in the first workmen's compensation law in this country. He is a predecessor of mine in the Ohio State Legislature.

Mr. RILEY. He was most delighted, Mr. Burke, to get the information, of course, that Mississippi, now the forty-eighth State, has come along and adopted workmen's compensation laws.

Thank you.

Mr. WIER. Let me ask you this, Mr. Riley: Do you service these postal employees generally?

Mr. RILEY. That is my assignment.

Mr. WIER. Then maybe you can answer this question. This is an answer that this committee will have to furnish for the passage of this bill. It comes up every so often.

You make some reference to it in either Mr. Green's letter or in your statement about guinea pigs. It is true that the Government has a lot of people in that type of employment, where they are subject to experimental work. I think Mr. Smith asked the question the other day and seemed quite concerned about it, on the basis of last year. I think we clearly understand what the accident section of this legislation actually is, an arm, a leg, an eye, a finger, or a foot. But into this is going to creep occupational diseases. That will give us a headache.

Mr. RILEY. There is no question about it.

Mr. WIER. What is your reaction, if I ask you—if I am rather contrary about this and negative about it, and am looking for a way out—what the involvement here is, on the basis of this, and what this legislation is going to require in the way of occupational diseases coverage; what is your answer.

Mr. RILEY. I would say first, Mr. Wier, that in the Government you do not have quite as many types of occupational diseases, such as silicosis, typically. You might have cases of silicosis, but I do not think that is a major disability, for example. That is an impairment or disability in itself, but I do not know that it is curable, as

a disease. It is something that gradually overtakes you, and after that you are no longer fit for the job.

So I think that first of all you would want to consider that you have a limited field in the occupational disease category. You have, of course, the disability retirement which takes care of many such cases which not necessarily are incurred in line of duty. A person may later develop as a tubercular. It may not be directly related to his occupation. In that case, he becomes a responsibility of the Civil Service Commission's Retirement Division, and therefore is a casualty under the heading of disability retirement. I think that begins after that to limit your field of discussion and the defense that you have to put up to the bill if you are going to be called upon to defend it under the category of occupational diseases. I do not know that I have necessarily answered your question, but if I have not, I will pursue it further.

Mr. WIER. No, you have not answered it. Let us take the State of Ohio, which has perhaps the best compensation law in the United States, or did have, to my last knowledge.

Mr. BURKE. It does not have now.

Mr. RILEY. New York has a very splendid one. It has been amended two or three times.

Mr. WIER. Let us take either one of them. They are quite broad in their complete coverage of many, many types of occupational diseases that have come into industry. I am a little skeptical that if we were to attempt to say to anybody who is in a negative mind, "Yes, this covers occupational diseases," they would back away from it, as Mr. Smith indicated the other day.

Mr. RILEY. I think this much, Mr. Chairman. Mr. Wier, and Mr. Burke. We should not pull any punches in including all possible cases due directly to impairment on the job. I do not think at any time that any one of the 48 States would excel or exceed us. I think it is the task of the Federal Government. The Federal Government has stepped out at the head of the parade here on everything else. I just do not see why in this case anything that a State has to offer should be in any way avoided, wittingly or unwittingly. I feel boldly this is a bill which the House can defend against all comers. It is a reasonable bill. It is a good public policy. It is realistic. For example, it does not put the same valuation on the loss of a member by a charwoman as it does a high executive.

Mr. WIER. Let me ask you this, then, very briefly. In your opinion and intention, do you feel that this bill does basically cover occupational diseases as qualified by an examining expert?

Mr. RILEY. As I read it; yes, it does.

Mr. WIER. The answer would be yes, then?

Mr. RILEY. Yes, sir.

Mr. BURKE. Would you yield for a question at that point?

Mr. RILEY. I might pursue it further, Mr. Chairman. If it does not, I think it should definitely be defined to do so.

Mr. BURKE. Would the gentleman yield for a question?

Mr. POWELL. Mr. Wier, will you yield some of your time back to Mr. Burke?

Mr. WIER. Yes. But Mr. McCauley has just told me something here. I do not have the law here. I have an amendment. He just showed me the law, where it is very definite.

Mr. RULEY. Yes, sir. If it does not include it, I think it should be considered.

Mr. WIER. Yes, sir. He has the law. What we are considering is only an amendment to the existing law.

Mr. POWELL. Yes, sir; this is only an amendment.

Mr. WIER. I do not seem to know what I am talking about here.

Mr. BURKE. The question I would like to ask along that same line is this: It is much better to do it as it is proposed in the bill to do it than to do it as it is done in some States; that is, to spell out a certain table of occupational diseases?

Mr. RILEY. Yes.

Mr. BURKE. That is because Government employees are subject to practically every disease in the calendar and some that have not yet been discovered, especially in some of the experimental phases.

Mr. RULEY. Some new ones, Mr. Chairman, have come in, and are peculiar only to Government, whereas I said awhile ago that there are certain things in industry that perhaps the Government does not have. But we have some specializations these days that without question are peculiar to the Government.

Mr. BURKE. Atomic energy probably would give rise to a great many, for instance.

Mr. RILEY. Absolutely.

Mr. BURKE. And the Public Health Service and other fields of Government endeavor?

Mr. RILEY. That is right.

Mr. BURKE. So we cannot very well spell out a table of possibilities.

Mr. RULEY. Let me give you a very splendid example. I had the privilege, Mr. Chairman, of being for several years the staff director of the Senate Post Office and Civil Service Committee. That lasted up until the 1st of March of this year. In that capacity, I was privileged to go to certain posts and stations in this country to see certain operations. At the Muroc air base in southern California, for example, which is about 100 miles from Los Angeles, there is a dry lake that they use for experiment in speed, and so forth. There are test pilots there. Several of them last year lost their lives. They were some of those unsung heroes that we did not hear about. Nevertheless, their survivors are mute evidence of their loss. And those speeds, after they get up to the supersonic speeds, are so tremendous that even though they are "masters of their steeds," the mechanical factors can go wrong quite often, and that, I would say, is definitely peculiar to the Government service.

Those are civilians, incidentally. They are test pilots. They are men who are inured to that type of hardship, but, of course, in the twinkling of an eye, anything can happen, and it has happened.

Mr. POWELL. Thank you very much.

Mr. RILEY. Thank you.

Mr. POWELL. This committee will not hold hearings tomorrow. It will stand in recess today until after the Easter period.

Mr. WIER. Mr. Chairman, I do wish that you would get the figures on that retroactivity fight that we shall no doubt have.

Mr. POWELL. Yes. I think that you and Mr. Burke can get them from the general counsel, and let him get the facts together.

Mr. WIER. Yes.

Mr. POWELL. We have a statement from Congressman Kennedy in support of H. R. 3191. Without objection, it will be included in the record.

(The statement referred to is as follows:)

STATEMENT OF THE HONORABLE JOHN F. KENNEDY IN SUPPORT OF H. R. 3191

I appreciate the courtesy of this subcommittee in allowing me to insert in the record of hearing proceedings on H. R. 3191 a statement of my support of this bill.

It is amazing to realize that comprehensive legislation such as is embodied in H. R. 3191, which provides compensation for employees of the United States suffering injuries while in the performance of their duties, has not been, prior to this, acted upon by previous Congresses.

The present act, approved September 7, 1916, which covers such compensation, is shockingly inadequate in its provisions to deal with present-day requirements of these partially and totally disabled Federal employees.

I heartily endorse the favorable reporting of H. R. 3191 by this subcommittee and hope that the Eighty-first Congress will take speedy action to enact into law this bill which provides for benefits to disabled Federal employees more realistic and just in terms of present wage rates and high living costs.

Mr. POWELL. We have with us today, fortunately, one of the witnesses for tomorrow, Mr. Floyd Bishop, and if he will come forward, we can hear his testimony today.

Mr. Floyd Bishop.

TESTIMONY OF FLOYD BISHOP, ACTING REPRESENTATIVE,
NATIONAL LEAGUE OF DISTRICT POSTMASTERS

Mr. BISHOP. Mr. Chairman and members of the committee, my name is Floyd Bishop. I am acting representative of the National League of District Postmasters, and also postmaster in a third-class post office at Mitchellville, Iowa.

I have a written statement here, and if I could just insert it in the record, I will not touch upon matters that other employees groups have covered quite thoroughly, but will confine myself more or less to the matters which particularly pertain to postmasters.

The National League of District Postmasters wishes to go on record as favoring the provisions of H. R. 3191 and urging its passage. We wish also to go on record as asking the inclusion of postmasters under the Compensation Act as they are included within this bill. We think that just because the law designates a man as an officer, that does not give any reason for discrimination against him, as the present law does.

Postmasters need the protection of this legislation because their average salary is less than \$2,500 a year, and consequently they are unable to lay up any reserve of funds with which to support themselves and their families in case of any accident which might impair their earning capacity. Their economic circumstances are also inadequate in almost all cases to pay for hospitalization and medical care in case of any serious accident which should occur in their work. It is a matter of record that 50 percent of the postmasters in this country actually receive a salary of less than \$2,000 a year.

We think thus it will be readily understood why this legislation is so important to these employees.

The occupation of postmaster is not particularly hazardous, but at the same time there have been enough accidents of a serious nature occurring to postmasters to point to the definite need of their inclusion within this law, and some method used to protect them against some of the hazards in the performance of their official duties. The case of a postmaster in Arizona who was shot because a patron was angry because he had no mail is a rather unusual circumstance, we realize. Nevertheless, it was just as important to the man's family that he have the arm of the Compensation Act on which to lean for some measure of support.

There was a case in Iowa where the office of a postmaster was almost completely demolished and the postmaster was very seriously injured. We think that further points to the need of some legislation which will protect him. I might say in this case the postmaster not only had to stand his own hospitalization and received no compensation for his injury, but he also had to stand the expense of remodeling his post office. That was brought about because postal laws require the postmaster to furnish the equipment of his office where the Government does not, and that is true in about 85 percent of the post offices of the United States.

Postmasters are also charged with the responsibility of protection of the mails and Government funds that come into their custody. However, under present law, if the postmaster should resist robbery and be killed as a result, his salary would be stopped immediately and his family could collect not one cent of compensation for that loss of the salary. We think that is entirely unfair and unjust. It just does not behoove any of the standards set up by private industry or other Government employees.

I will not go into the rate levels, because I think they have been adequately covered. But we do wish to go on record as favoring the elimination of ceilings on these compensation benefits, except as percentages. We think that it should be applied equally to the high-salaried employees as to the low-salaried employees.

Postmasters are a little different from most types of employee groups in that they have some of the highest salaried employees and also some of the lowest salaried employees. In fact, some postmasters earn a salary of as little as \$250 a year, while others reach a maximum of \$12,000.

We think it is entirely unfair to discriminate against these higher-salaried employees. We think the law was set up to provide for protection against any drastic change in living standards of that employee and also his family, and if it is protection that we are giving him, then we think it is time to give protection to all alike and make no discriminations.

I would like to urge the committee to report this bill favorably. We are making no requests for any amendments, although there are some cases in which they would certainly be equitable. But we are leaving that to the committee, and are asking that none be made.

If there are any questions that I can answer, I should be glad to answer them.

MR. POWELL. Mr. Burke?

MR. BURKE. How long ago did this incident happen in Iowa?

MR. BISHOP. It was, I believe, about April or May of last year. It was just about a year ago, not over that.

Mr. BURKE. Then probably the retroactivity phase of the bill as it is written would cover that?

Mr. BISHOP. Yes. I think if it was made for a year or so, it would cover that, and also the case of the postmaster in Arizona. I have mentioned those two cases because they were rather dramatic. However, our usual case load would not be as heavy at other postal groups, because a lot of postmasters can carry on with some minor injuries, and many of them have in the past, and they can in the future. Most of them would not see any percentage in taking advantage of the Compensation Act, because they can still make more money on the job, and they also have the disadvantage of the responsibility of their office, even though they are away without pay.

That is my own case now. I am on leave without pay; yet I must still stand responsible bond and must carry out all the responsibilities of my office. That would also be true of a postmaster who was on leave without pay in the event of injury. He would be responsible for every dollar that went through that post office.

Mr. BURKE. Take the case of this man in Iowa as an example. Do you feel that we should go back and pick up his medical expenses and lost time compensation that would be awarded under this bill?

Mr. BISHOP. I think possibly in his case he had enough sick leave and annual leave to take care of it, and has already drawn that. I do not just know. It was not brought to my attention. Although I know the man quite well, I did not discuss that with him. We have based our big hope that postmasters and all other civil employees will be included in this bill. That has been our main objective.

Of course, I think actually we owe these people that consideration. But I know that when you go back and make something retroactive, you may bring up a lot of objections to the bill, not so much on the specific cases that it would cover, but mainly because we do not know what it would cover.

I do not imagine there would be too many serious cases amongst postmasters, but I think it would be equitable if a way could be found to include that. We would not like to weight the bill with anything which might injure its probability of passage.

Mr. BURKE. I do not think we will find much objection to the provisions of the bill as far as the increase in benefit is concerned, and the schedule of disabilities. But we might get into some trouble on the retroactivity.

Mr. BISHOP. That is what we figured. I have covered the schedule in my testimony, but that has been adequately covered. I think it is quite evident that it is agreeable to all, and I have not bothered to mention that at all.

Mr. BURKE. That is all.

(That portion of Mr. Bishop's prepared statement which was not covered by his oral testimony is as follows:)

I could cite many more instances of accidents. However, it is not the accidents, but the need of protection against them, that is important.

The rates provided for compensation under existing law are entirely inadequate. They were designed to meet the needs of a period whose economic demands are completely unrealistic to the present-day price levels. The schedules of the present compensation law are so low as to be almost meaningless as compared to present-day cost of living. They leave any employee, who is without other private income, dependent upon insufficient savings in any case of serious accident.

We wish to go on record as favoring the elimination of any ceiling on compen-

sation, except as to percentage. The intent of employees' compensation is to protect the employee and his family from any drastic changes of his standard of living caused by accident in his work. That is only just and fair.

We can see absolutely no justice in not giving higher salaried employees the same treatment as the lower paid ones. If it is protection we are giving them, we should give it to all alike.

The present ceilings on compensation would hardly pay the rent alone for most of our higher-paid groups.

I wish to urge the committee to report favorably this bill for passage at an early date. I want to take this opportunity, also, to thank the committee for the privilege of appearing before you today to represent the interests of the Nation's postmasters.

Mr. POWELL. Thank you, Mr. Bishop.

Mr. BISHOP. Thank you very much.

Mr. POWELL. Is Mr. Leet there?

(No response.)

Mr. POWELL. If not, the regularly scheduled witnesses have appeared, and the committee will not accept witnesses that have not filed a brief before. But Mr. George Warfel, president of the National Association of Special Delivery Messengers, desires to make a brief statement and, without objection, we will let him do that at this time.

Mr. BURKE. Surely.

Mr. POWELL. Mr. Warfel.

STATEMENT OF GEORGE L. WARFEL, PRESIDENT, NATIONAL ASSOCIATION OF SPECIAL DELIVERY MESSENGERS

Mr. WARFEL. Mr. Chairman and members of the subcommittee, my name is George L. Warfel, and I am president of the National Association of Special Delivery Messengers, of the postal service.

The members that I represent are men who have a high incident of casualties in the performance of their duties. Practically all of our group are out handling cars in the delivery of mail, and they have to fight traffic conditions in all kinds of weather, the regulations providing for service between 7 o'clock in the morning and 11 o'clock at night.

All of those things taken into consideration do increase the hazard, and then, of course, they have the steps to go up in all kinds of weather, and in the darkness, especially, that increases the hazard.

I want to endorse for our membership the bill, H. R. 3191, and I also want to express on behalf of our membership our appreciation to the author of the bill and those who assisted him in his preparation, and our thanks for the careful approach and consideration that they have given to this problem. We consider that it is a very fine bill. It is something that is very meritorious and has been needed for some time.

Thank you, sir.

Mr. POWELL. Are there any questions?

Mr. BURKE. No questions.

Mr. POWELL. The committee will stand in recess subject to the call of the chairman.

(Whereupon, at 11:45 a. m., the subcommittee adjourned subject to the call of the chairman.)

FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1949

MONDAY, MAY 2, 1949

HOUSE OF REPRESENTATIVES,
SPECIAL SUBCOMMITTEE OF THE
COMMITTEE ON EDUCATION AND LABOR,
Washington, D. C.

The subcommittee met, pursuant to notice, at 10 a. m., Hon. Cleveland M. Bailey presiding.

Mr. BAILEY. This committee having been in session on April 11, 12, and 13 for the consideration of H. R. 3191, and the committee hearings at that time having been recessed, the committee is reconvened this morning to resume hearings on the pending legislation.

At this time, the committee would be glad to hear from John W. Gibson, Assistant Secretary of Labor, for the Department of Labor
Mr. Gibson.

TESTIMONY OF JOHN W. GIBSON, ASSISTANT SECRETARY OF LABOR, ACCOMPANIED BY JOSEPH M. STONE

Mr. GIBSON. Mr. Chairman, I welcome this opportunity to appear before your committee to testify on H. R. 3191, called the Federal Employees' Compensation Act. I have a brief prepared statement which I would like to give to the stenographer for the record, and I will just make a few comments myself without reading the statement, if it is all right with you.

Mr. BAILEY. If there are no objections, the statement will be entered in the record as prepared.

(The statement referred to is as follows:)

STATEMENT OF JOHN W. GIBSON, ASSISTANT SECRETARY OF LABOR, ON REVISION OF THE FEDERAL EMPLOYEES' COMPENSATION ACT

Mr. Chairman and members of the committee, I welcome this opportunity to appear before you to present the views of the Department of Labor on H. R. 3191, a bill designed to modernize the provisions of the Federal Employees' Compensation Act. The Department of Labor, vitally concerned as it is with promoting and encouraging the establishment of better labor standards throughout the Nation, is naturally interested in the nature and scope of the labor standards established by the Government for its own employees. My remarks will be extremely brief, and confined to the more general aspects of this proposed legislation.

Workmen's compensation is the oldest type of social insurance to be developed extensively in the United States by legislation. Today workmen-compensation laws are on the statute books of all 48 States, as well as Alaska, Hawaii, and Puerto Rico. The desirability and social value of these laws are unquestioned. The extensive experience acquired, moreover, in administering them has given us an intimate knowledge of the nature of the problems encountered, and a

firm grasp of the techniques of their solution. To my mind, all of this means that these laws which are designed to assure prompt and just payment of benefits to those whose wage-earning capacity is lost or impaired as a result of injuries sustained in the course of their employment should represent the furthest advance made in the field of social insurance. The law under which protection is afforded by the Government to its own employees, at the very least, should compare favorably with most State compensation laws.

The peculiar nature of the employment relationship between the Government and its employees imposes an unusual obligation on the part of the Government to safeguard employees' rights. The Government has become a large-scale employer, not only of administrative personnel but also of industrial-type workers, among whom the likelihood of injury is great. Yet the Government, as an employer, is not subject to the usual pressures which employees can exert against their employer to protect their interests. In accepting Federal employment, Government employees have also accepted generally recognized limitations on the rights widely enjoyed by nongovernmental employees. The Government, therefore, it seems to me, must be particularly alert to the needs and rights of its employees, and be above reproach with respect to the labor standards it establishes for its own employees.

H. R. 3191, the bill here under consideration, provides for a number of beneficial and necessary improvements which will do much to achieve this goal.

The bill removes the present ceiling of \$116.33 upon the monthly compensation for disability. Not only is this figure out of date in terms of today's economy, but it also established an unrealistic and inequitable relationship in many cases between the wage loss and benefits. Section 104 of the bill, amending section 5 of the act, contains a limited schedule of compensation for permanent disability involving the total or partial loss, or loss of use, of certain readily identifiable members or functions, such as a limb or part thereof, an eye, one's hearing. In addition, in specified major injury cases, the scheduled compensation is merely minimal, that is, after the expiration of the scheduled period the disabled worker receives compensation on the basis of actual loss of earning capacity. Burial benefits are increased from \$200 to \$400 and authorization granted to provide casket and transportation of the remains of an injured employee who dies away from home while undergoing treatment or examination. Disability payments to a disabled worker having one or more dependents are increased from 66 $\frac{2}{3}$ % to 75 percent. The limitation upon the aggregate of the percentages of a deceased employee's monthly pay, which are provided by the act for individual dependents within a family group, is also raised to 75 percent. Other increases of varying amounts are provided for widows or dependent widowers and their children, if any. All of these increases reasonably reflect the demands made by present economic conditions. Other changes proposed in this bill provide for the extension of the act's coverage to include civilian officers and persons rendering personal services to the Government without, or for nominal, compensation, an increase from \$50 to \$75 a month in the allowance for an attendant for helpless disabled employees, and the grant of maintenance allowances, not to exceed \$50 a month, to employees undergoing vocational rehabilitation.

These proposals, as well as other proposed changes, constitute extremely salutary and sorely needed improvements to the act. They are reasonable and modest, and should be adopted.

The number of weeks for which compensation is payable for the particular injuries specified in the schedule set forth in section 5 (a) are quite conservative. They conform, in the main, to the provisions of the Longshoremen's Act and the New York workmen's compensation law. A comparison with other State laws indicates that they are comparable generally with many of the State compensation laws. Some States, in fact, have laws more favorable in some respects, and the laws of Oregon and Wisconsin provide considerably greater benefits generally than those here under consideration. There can be no valid objection, it seems to me, to adopting the proposed schedule.

Similarly, the conditioning of payment for the first 3 days of disability upon the disability exceeding 21 days appears to be an extremely reasonable proposal. Eleven States pay compensation for the waiting period if the disability lasts 15, or even less, days. North Dakota and Nevada, for example, require only a 5-day disability period before payment for the waiting period is made. On the other hand, some States require periods of disability varying from 3 to 7 weeks. The report of the Committee on Workmen's Compensation to the Fifteenth

National Conference on Labor Legislation recommended that payment for the waiting period be made retroactively after not more than 14 days to the date of the injury. Plainly, the 21-day period represents a reasonable middle ground.

There are only two aspects of the bill, and rather minor ones at that, upon which I desire to offer suggestions for your consideration.

The provision contained in section 6 of the act, under which the Administrator is empowered to recompute the disability payment made to a disabled employee after he has attained the age of 70 years, requires reexamination with the view toward providing adequate compensation for employees in this category.

Workmen's compensation is not supposed to be predicated upon the financial needs of an employee depending upon the particular stage of life through which he is passing. It is predicated on the basis of his lost wage-earning capacity at the time he suffered the disability, and this compensation is, and should be, completely unrelated to his longevity. Moreover, simple justice, it seems to me, would require that a worker whose income has been reduced for a period of time, who may have been denied the opportunity because of his injury to augment his wages through promotions, should not be further penalized in his later years by a downward revision of his disability payments. Moreover, the wage-earning capacity of an employee may have been considerably greater in his later years had he not been injured than it was at the time of the accident, so that a recomputation on the basis of what he was actually earning when injured, rather than on the basis of his probable wage-earning capacity, would hardly constitute a fair and equitable mode of determining the benefits to be paid a disabled worker after he has attained the age of 70.

Section 101 (b) of the bill, amending section 8 of the act, could, in my judgment, afford greater flexibility to the employee who chooses to use his annual or sick leave at the time the disability begins. As it now stands, the proposed amendment appears to require an employee to use all of his accumulated annual or sick leave once he elects to use it at all. It seems to me that the employee should be given the option to use only part of such leave, if he so desires. In a sense, by utilizing his leave, an employee undertakes part of the cost incurred by the injury, and the employee should be the one to determine in advance the extent to which he feels he is able to shoulder this additional burden.

The changes to the Federal Employee's Compensation Act, as proposed in H. R. 3191, are necessary if that act is to be an effective instrument for granting to Government employees the same workmen's compensation protection as is generally enjoyed by nongovernmental workers throughout the Nation.

I urge the prompt passage of the bill.

MR. GIBSON. I want to state first that the Department of Labor in its standard work with the various States and Territories on this question has a rather vital interest and concern in the type of Federal employees' compensation act that this committee might recommend to the House of Representatives. My remarks are going to be rather brief and somewhat general. However, I am prepared to be more specific on points if some of the members of the committee desire.

First, let me say that this is the oldest type of social insurance here in the United States, and now all 48 States and the 3 Territories have some sort of workmen's compensation law. I think we have a background of perhaps 40-odd years of experience in the field of workmen's compensation. I think it means that we have a pretty good idea of where we are going in this field and have had tested somewhere or other some of these State statutes.

Workmen's compensation laws should assure prompt payment for loss of earning capacity or impairment as a result of industrial injury. The Federal Employees' Compensation Act should compare with the better State laws. The peculiar nature of the relationship between the Federal Government and its employees is one that I think we have to take into consideration.

First, the Government is a large employer today, not only of administrative personnel, but also of industrial personnel of various types. Many of these workers—as a matter of fact, all of them—cannot subject their employers to the usual pressures nor gain the protection that employees in private industry get through collective bargaining, and full rights to organize, and a few things like that. When an employee accepts Federal employment, he accepts it knowing that some of those freedoms and rights that ordinary employees in private industry who are normally covered by workmen's compensation acts have, are not available to him.

Therefore, I think we ought to be particularly alert to see that this oldest and perhaps most popular type of social insurance in the country is kept well up to date in our endeavors for Federal employees.

This act removes the present ceiling of \$116.33 per month and attempts to make these payments on the basis of the actual wage loss. Section 104, amending section 5 of the act, schedules specific losses. And in that schedule, it seems that we are following fairly closely the longshoremen's act and the New York State act in the amount of benefits that would be allowed for a specific loss.

On the other hand, I might point out that the States of Wisconsin and Oregon have more liberal benefit schedules.

Many of the other States have schedules that in general parallel the schedule set forth here in this act. This act increases the burial benefits from \$200 to \$400, and at the same time provides that the Administrator may return a worker who has died from an injury or who has been killed away from home, to his home, that is, return the casket at the expense of the fund. I think that is a particularly good provision, since many of our workers are scattered in far away corners throughout the world, and it is a terrific expense sometimes to bring them back, and works a great hardship.

Disability payments under this act are increased from 66 $\frac{2}{3}$ percent to 75 percent for an employee who may have one or more dependents. Other increases of varying amounts to widows and orphans are provided for in the act.

I think that these provisions reasonably reflect the demands of our present economy. When we first set up workmen's compensation acts, many, many years ago, they were predicated on the basis of providing something around two-thirds of the wage loss of the employee. Because of limitations in many of the States now, they dropped as low as 35 percent or 40 percent of an employee's earnings, and even lower than that in some instances.

I think the same thing has been true of the Federal Government's workmen's compensation act.

I think this is a forward step which the committee and the Congress should take at this particular time. There is an extension, also, of coverage which has perhaps been long overdue, to include civilian officers and persons rendering personal service to the Federal Government.

As I understand it, a great many of them have not been included under the workmen's compensation statutes up to this time. There is an increase from \$50 to \$75 a month allowance for an attendant in the event that the injured employee needs a full-time attendant. I think certainly that is a small enough monetary consideration for that sort of work.

It also makes a movement in another direction in which I heartily concur, and that is in the field of vocational rehabilitation. It does it in two ways. One, it would allow up to \$50 for maintenance costs for an employee who was taking vocational training, particularly at the direction of the Administrator. This is a reasonable and modest allowance, and it is putting emphasis upon rehabilitation and returning employees to gainful employment, which I think everybody has to subscribe to.

There is also another point. The first 3 days of a person's injury have not been compensated for up to this time. As I understand the old law, that was the case. This new law provides that after 21 days, the first 3 days shall be compensated for. That is a standard practice throughout the various State jurisdictions. As a matter of fact, 11 States pick up the first few days after 15 days of disability, and North Dakota and Nevada pick it up after 5 days of disability. The other States vary from 3 to 7 weeks time in which they pick up the first week of disability. So I think 21 days is a modest recommendation and one which should be adopted.

I might also add that the National Conference on Labor Legislation last year sponsored a recommendation which called for the picking up of the first few days of a compensable injury after 14 days. So I think we are on very safe grounds in the 21 days that are allowed in this act.

There are a couple of provisions here which I think we in the Department might take some exception to. The provision of section 6 which empowers the Administrator to recompute payments after an employee becomes 70 years old is one that we are not sure about the justice of. We are sure that workmen's compensation is not predicated upon the financial means of an individual at any particular point in his lifetime. We feel it is there to compensate for the loss of the wage-earning capacity of the worker, and we think that is a sound predication for it. Also a worker who might be on compensation at the age of 70 probably has suffered many years of reduced earnings and wage loss as a result of his injury and his inability to work. I do not think that there should be any provision with respect to a person at that particular age in life, just picking it out, where the Administrator should review and recompute his compensation earnings. I do not think it is very fair to the employee.

Section 101 (b) of the act amends section 8 of the act, and we think it should offer a little greater flexibility. There you are dealing with the question of taking sick leave and annual leave as a substitute for workmen's compensation payments under this act. It is very rigid. If a man says, "I want to accept my annual leave," then he has to liquidate all of his annual leave before he can come back on workmen's compensation.

Now, actually, a person who is doing that is paying his own workmen's compensation, because he is taking his vacation money, or his annual leave, in lieu of compensation. I think certainly there should be enough flexibility on both that and the sick-leave question so that if he wants to take part of it and preserve a portion of it, he ought to be permitted to do that.

Actually, I do not think that we ought to deduct from his compensation payments if he takes annual leave at all, because it is an earned and accumulated vacation schedule, and I personally do not

approve of taking any of it. If he wants to take that while he is out as a supplement to his compensation benefits, I think he should be permitted to do it.

On the question of sick leave, I doubt a little the advisability of his taking sick leave under any circumstances for those types of industrial injuries that he receives on the job. I think there it ought to be flexible enough to allow him to take any amount that he wants to from either of these two leaves, and then let him go back on the compensation, and not make him stick rigidly to it and make him use up all of it once he decides to take it.

I say in closing that we want firmly to urge the passage of this bill at this time. The subject, as it is in many of the States, is often neglected for a great many years, and we want to urge the committee to take prompt action in passing the bill.

MR. BAILEY. Mr. Gibson, you mentioned in your presentation the additional coverage provided that is not in the present act.

MR. GIBSON. Yes.

MR. BAILEY. Could you estimate the number of employees who would be covered in addition to what is covered in the present act?

MR. GIBSON. No, I cannot. I could not do that. I assume the Federal Security Agency would be better qualified than we would be, since they administer this particular law. We would be glad to get the figures and submit them for the record if you would like.

MR. WIER. That question was answered at the first hearing.

MR. GIBSON. I assume that it has been.

MR. BAILEY. I am advised that the Federal Security Administration will provide the committee with that information.

MR. PERKINS, do you have any questions?

MR. PERKINS. Nothing, Mr. Chairman.

MR. BAILEY. Mr. Burke?

MR. BURKE. No questions.

MR. BAILEY. Mr. Wier?

MR. WIER. Let me ask you this: You made some comment in the very opening of your presentation about the advantages of employees in private industry as against the employees in Government, that they had benefits of this type that were more advantageous in private industry than Government employees did not have. And you mentioned collective bargaining, and so forth.

MR. GIBSON. Yes.

MR. WIER. In other words, you led me to believe that there are some things that employees in private industry can do that these people cannot do in the way of collective bargaining. What restrictions are on Government employees in the process of collective bargaining?

MR. GIBSON. Government employees virtually have no right to bargain collectively. They have certain protest rights, and things like that, but Government employees virtually have no real collective-bargaining rights as we know them in industry.

MR. WIER. That is only in Washington, I assume?

MR. GIBSON. I beg your pardon?

MR. WIER. That is only in Washington, I assume?

MR. GIBSON. No. That is wherever we employ employees.

MR. WIER. As I gathered from our first three hearings on the 11th, 12th, and 13th, there are three important changes in this bill, aside from what you mentioned here today. No. 1 is the readjustment

in the type of compensation from a specific maximum to a percentage of pay. That is No. 1.

Mr. GIBSON. I think it is a percentage of pay without a limitation. I think that is a better way of putting it.

Mr. WIER. And I think the figure used on the cost of that was, on the basis of 1948, about \$7,000,000, by the Department.

Mr. GIBSON. Yes.

Mr. WIER. The second benefit in this new law is the extent of coverage, to include any and all Government employees, even \$1-a-year men?

Mr. GIBSON. That is right.

Mr. WIER. The third important point that brought on some discussion here in the committee was a question of extension of occupational diseases on account of atomic energy, and so on and so forth. That is going to be a point of controversy, how far into occupational diseases can we carry this act.

Mr. GIBSON. I am not sure about just what coverage you have on occupational diseases, but I assume that any occupational disease is covered under this law.

Mr. WIER. There are some new ones popping up now, particularly in the atomic field.

Mr. GIBSON. Yes.

Mr. WIER. Then the fourth point that came out, to my recollection, was the retroactivity.

Mr. GIBSON. Yes.

Mr. WIER. That is, how far back we should go, whether it is 1 year or 7 years.

Now, this morning you bring up the fifth one of importance, and that is the one you just elaborated upon.

Mr. GIBSON. You mean annual leave?

Mr. WIER. Yes, and the 70-year matter.

Mr. GIBSON. And the 70-year matter; that is right.

Mr. WIER. That one I have not heard before.

Mr. GIBSON. Well, the 70-year matter I think would have a very minor effect insofar as money was concerned. But I think insofar as justice is concerned, it ought to be looked into. Moneywise, I do not imagine it amounts to but very, very little.

Mr. WIER. Those are the five points that I imagine this committee will have to iron out insofar as I have seen it.

That is all.

Mr. BAILEY. Mr. McConnell?

Mr. McCONNELL. I have no questions.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. Mr. Gibson, you mentioned this 70-years-of-age proposition, that you do not think they should be reclassified when they get to be 70 years of age. Now, just explain your theory about that a little more in detail.

Mr. GIBSON. I think we soundly base our workmen's compensation on wage loss or loss of earning power, of employees, and I do not think we ought to take any age of an employee's life when he might be drawing compensation and say, "We will take your compensation and reduce it at that point," particularly when a person is 70 years old, and also when he might have spent many years on a compensation at a reduced earning capacity.

Mr. SMITH. Now, let me get at that a little more directly. Your theory is that here is a man who at the age of 65 receives an injury which is compensable, and he receives compensation. Most of them, we will say, get 8 or 10 years' total disability. Now, after he got to be 70, you think that they should not go back and recompute it, after, say, 5 years, assuming he was 65, which would be a 5-year wait. When he gets to be 70, you do not think they should go back and recompute that?

Mr. GIBSON. No; I do not think so. After they get to be 65 years, maybe they could go back and recompute it when they get to be 70 under this act. But I do not think they should have the right to do that.

Mr. SMITH. On what theory do they do that? Is it that after 70 years, it may cost less for him to live?

Mr. GIBSON. I do not think so.

Mr. SMITH. I am a little hazy about it. I do not see the justification for it.

Mr. GIBSON. I do not, either. That is why I pointed it out to the committee.

Mr. SMITH. That is all, Mr. Chairman.

Mr. BAILEY. Thank you, Mr. Gibson.

Mr. GIBSON. Very well, sir.

Mr. BAILEY. The Chair at this time would like to ask permission to have inserted in the record a communication from Congressman Clifford P. Case, transmitting a letter from Mr. Thomas F. Flanagan, of East Orange, N. J., in reference to H. R. 3191. If there are no objections, the communications will be entered in the record.

(The letters referred to are as follows:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., April 28, 1949.

CHAIRMAN, EDUCATION AND LABOR COMMITTEE,
House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: I enclose herewith copy of a letter I have received from Mr. Thomas F. Flanagan, publicity director of the New Jersey Affiliated Postal Employees Legislation Committee, post-office box 22, East Orange, N. J., with reference to H. R. 3191.

I shall appreciate your bringing Mr. Flanagan's views to the attention of the members of your committee for their consideration.

Yours sincerely,

CLIFFORD P. CASE.

NEW JERSEY AFFILIATED POSTAL EMPLOYEES LEGISLATION COMMITTEE,
East Orange, N. J., April 19, 1949.

Hon. CLIFFORD P. CASE,
House of Representatives, Washington, D. C.

DEAR CONGRESSMAN CASE: I am writing you for your support of H. R. 3191—Lesinski bill—to increase compensation for Injuries Act. This bill was given hearings on April 11-12.

Please contact Chairman Lesinski and urge him to have House Labor Committee report out H. R. 3191 favorably in the near future. It is a worthy bill.

Under present law, \$116.66 is the maximum pay for compensation due to injury while on duty. H. R. 3191 will increase this amount.

Please support H. R. 3191 when it comes up in House for a vote. Do all you can to have H. R. 3191 enacted into law this session.

Many thanks to you for your many past favors.

Sincerely,

THOMAS F. FLANAGAN,
Publicity Director.

Mr. BAILEY. We have a communication from Congressman John Davis Lodge, asking permission to insert a brief of Richard A. Lesneski.

(The document referred to is as follows:)

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D. C., April 13, 1949.

HON. JOHN LESINSKI,
*Chairman, Committee on Education and Labor,
House of Representatives, Washington, D. C.*

DEAR COLLEAGUE: I shall appreciate it if you will include the statement of Richard A. Lesneski, a copy of which is attached to this communication, in the record of hearings with respect to H. R. 3191, a bill to amend the act of September 7, 1916, providing workmen's compensation for Federal employees.

Your courtesy is greatly appreciated.

Sincerely yours,

JOHN DAVIS LODGE.

(The statement referred to in the above letter had already been made part of the record. See p. 69.)

Mr. BAILEY. We have a presentation from George Cutler, president, second division of the Railway Mail Association.

(The communication referred to is as follows:)

RAILWAY MAIL ASSOCIATION, SECOND DIVISION.
Washington, D. C., April 12, 1949.

HON. AUGUSTINE B. KELLEY,
*Chairman, Subcommittee on Employees Compensation,
Labor and Education Committee,
House of Representatives, Washington, D. C.*

DEAR MR. KELLEY: I deeply appreciate the opportunity to present the views of my membership on the extremely meritorious legislation your subcommittee is considering today.

My name is George Cutler, and I am the president of the second division of the Railway Mail Association, a division having over 4,300 railway postal clerk members.

The great majority of our members perform their service in railway postal cars under the most hazardous and arduous conditions of any Government employee. Just a short time ago, six of our members lost their lives in the wreck of the Red Arrow, a crack train operating between New York City and Pittsburgh, Pa. Four other clerks were seriously injured at the same time, one of them now retired from the postal service on permanent disability due to the injuries he received in this accident. Four of the fatally injured clerks were men in the prime of life, providers taken from their families prematurely at a time when their good influence and earning capacity were most needed with small children, left without a father's guidance and love. No financial remuneration could fully ameliorate these tragedies, but certainly the benefit and needy survivors should not also be subjected to the demoralizing effects of grace financial need added to the great and irreplaceable loss they have already suffered.

This no isolated instance presented to the gentlemen of this committee, but a fair example of the hazards faced daily by railway postal clerks in the routine performance of their duties. The railway mail service had 33 deaths due to injury on duty during the years 1937-47.

I would also like to take this opportunity to present to you some minor suggestions for the amendment of this bill.

First, I urge that the three-day waiting period (without compensation) now contained in the bill be eliminated, and that an employee injured on duty begin to receive compensation benefits as prescribed by law on the first day of injury, such payments to be made only after certification of bona-fide injury by a Government-designated physician.

I further suggest that H. R. 3191 be amended by adding as paragraph c, section 4, p. 4, line 18) the following: Any partially disabled or injured employee who requires further medical treatment to effect complete recovery after his return to duty after being so disabled shall be granted compensatory time for all time necessary to receive such medical treatment.

Compensation records will show many instances of employees injured on duty, who return to duty while remaining under the care of Government-designated physicians because of additional medical treatment necessary to insure complete recovery from the injury received. Under the present law, and under H. R. 3191, such employees are required to report for the medical treatment ordered at the expense of their sick and annual leave.

I want to thank the members of this committee for their courtesy in permitting these remarks. I hope that an early and favorable report on this legislation will be made to the full committee.

Respectfully,

GEORGE CUTLER,

President, Second Division, Railway Mail Association.

MR. BAILEY. We have a communication from Harold McAvoy, national president of the Post Office and Railway Mail Service Mail Handlers, Watchmen and Messengers. If there is no objection, it will be inserted in the record.

(The communication is as follows:)

NATIONAL ASSOCIATION OF POST OFFICE AND RAILWAY MAIL

SERVICE, MAIL HANDLERS, WATCHMEN AND MESSENGERS,

New York, N. Y., April 11, 1949.

HON. AUGUSTINE KELLY,

Chairman, Subcommittee on H. R. 3191,

House Education and Labor Committee, Washington 25, D. C.

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

My name is Harold McAvoy, national president of the Post Office and Railway Mail Service, Mail Handlers, Watchmen, Messengers, 900 F Street NW, Room 916, Washington, D. C.

For several years we have supported legislation that would bring up to date our present Compensation Act. I am sure you will agree that our present act is in need of many changes, whereas, same could be brought up to date. Since 1926, very little has been done to either amend or bring in a bill that would take care of our present day way of living. By this I mean, the amounts paid for injury or death. Pertaining to H. R. 3191, I sincerely believe, that the enactment into law of this bill would be a tremendous step in the right direction.

Sincerely,

HAROLD MCAVOY, *President.*

MR. BAILEY. I also have Jerry Khuttz' article, from the Washington Post of April 24, 1949, which is pertinent to the subject of this hearing. Without objection, it will be included in the record.

(The article referred to is as follows:)

FOUR DISABLED EMPLOYEES DRAMATIC ARGUMENT FOR GREATER BENEFITS

There are many reasons why the Congress should approve the Lesinski bill which would provide more liberal benefits for (1) Federal workers who are disabled on their jobs, and (2) the families of employees who are killed in line of duty.

But four dramatic reasons are: Edward T. Rogers, William Osborne, Jules B. Conuts, and Leo F. X. Gowen. Let's take a quick look at their tragic cases:

Rogers is a chemical engineer at the Army's Edgewood (Md.) Arsenal. In the fall of 1946, he was conducting an experiment in the laboratory there. An explosion ripped off both of his arms; fractured both legs; ruptured both ear drums, and inflicted other severe body injuries.

The \$5,000-a-year scientist was hospitalized for 8 months. He had to use up all of his annual and sick leave in order to get funds to support his family. As time wore on, he had to use his savings for that purpose.

Rogers was given a maximum cash benefit under the ancient compensation law—\$116-a-month, plus \$50-a-month for an attendant when he was released from the hospital. After a year and with debts piling up, the scientist returned to the laboratory in his makeshift physical condition. He felt he had to even with his artificial arms and crippled condition, in order to support his wife, daughter, and elderly mother.

His case moved the Congress to act—it voted him a flat \$25,000 to compensate him in part for his disabilities. But the President vetoed the bill in a message

in which he apologized for his action. Instead, the President urged the Congress to approve a more adequate compensation system to cover all disabled employees.

Osborne was a Bowling Green, Ky., postal clerk. Several months ago he picked up an undelivered package and it exploded. The clerk lost both arms and eyes in the accident. He'll never be able to resume his postal career. A young man, Osborne was married, had a child, and his wife was expecting another at the time of the explosion.

The \$116-a-month plus \$50 attendant fee is totally inadequate to care for him and his family. Fortunately for the disabled man, the good people of Kentucky and his colleagues in the postal service have raised more than \$55,000 for him. But his is a responsibility of the Government—and not of his coworkers and friends.

Counts is another Government scientist who was maimed in the laboratory. A graduate student at the University of Maryland, he was a \$4,900-a-year explosive chemist at the Aberdeen (Md.) Proving Ground.

A blast last August 5 tore off both hands and disfigured the brilliant 33-year-old scientist. In the past 8 months, Counts has used all of his sick and annual leave, his war bonds and other savings have been wiped out, debts are piling up, and he's worried over providing for his wife and baby. The \$116 monthly allowance he started to receive when he left the hospital is pitifully inadequate.

Counts was back at Walter Reed Hospital several weeks ago for a check-up. The doctors there told him he should have another operation and a long period of rehabilitation in order to use his artificial hands. Distressed at his family's plight, he decided to try to go back to work in order to get enough money to care for them.

Gowen is a scientist at the Naval Ordnance Laboratory at nearby White Oak, Md. An explosion in the laboratory there on September 30, 1947, blew off his right arm, injured his left eye, and scarred his face. Gowen didn't accept compensation because he couldn't afford to. Instead he used up his annual and sick leave and then struggled back to the laboratory.

The Navy scientist testified before the Kelley subcommittee of the House Labor Committee which is holding hearings on the Lesinski bill. He pleaded with its members to make the bill retroactive in order to benefit him and the hundreds like him who have lost arms, legs, eyes, etc., in the line of duty.

Gowen's plea was warmly received. Donald Kingsley and Lyle Belsley, the Federal Security officials who testified for the bill, were instructed to look into the possibility. Both are sympathetic to a retroactive provision for the loss of members. The bill sets up a schedule of cash payments of so many weeks pay to compensate in part for loss of members.

In his testimony, Kingsley emphasized that the compensation act hadn't been changed in 22 years. Since that time, he said, there had been a great upswing in the price level, living costs, and wages—but the \$116 maximum for the Government's disabled employees remained unchanged. He said the figure was "out of step with reality" and that it worked a great hardship on the disabled and the families of employed who were killed on their jobs.

Last year alone there were 80,000 employees who were injured in their jobs—and the Government paid compensation to 11,000 of them. Uncle Sam today pays smaller compensation benefits than many States.

The realistic Lesinski bill doesn't carry a dollar ceiling. It would permit up to 75 per cent of salary to the disabled and the dependents of employees killed on the job.

Mr. BAILEY. The committee at this time will give 1 minute to Ross A. Messer, representing the Maintenance Employees of the National Association of Post Office Employees.

Mr. MESSER. Thank you.

STATEMENT OF ROSS A. MESSER, REPRESENTING POST OFFICE MAINTENANCE EMPLOYEES, NATIONAL ASSOCIATION OF POST OFFICE EMPLOYEES

Mr. MESSER. Mr. Chairman and gentlemen, my name is Ross Messer, representing the Post Office Maintenance Employees. We represent the custodial employees who operate and maintain post office buildings. We would like to place our organization on record as

favoring the enactment of this bill, H. R. 3191, to liberalize the compensation laws.

Thank you, sir.

Mr. BAILEY. Thank you, Mr. Messer.

The next witness will be Jules B. Counts, of Aberdeen, Md.

TESTIMONY OF JULES B. COUNTS, EMPLOYEE OF ABERDEEN PROVING GROUND, ABERDEEN, MD.

Mr. COUNTS. Mr. Chairman and members of the committee, in presenting the facts of my own case, I do not wish to appear unduly preoccupied with the hardships of my own case, but rather present the facts in the light of the many times these hardships are repeated for the hundreds of cases existing in the Government service.

On August 5 of 1948, while engaged in research for the War Department at the Aberdeen Proving Ground, an explosion took place in which both my arms were blasted off, my chest ripped open, and my left lung collapsed. After a month of hospitalization at the Aberdeen Proving Grounds, I was transferred to Walter Reed Hospital, where two additional operations were performed, and I was hospitalized for an additional 6 months. This hospitalization incurred many debts for my family and placed undue hardship on them.

During March of this year, while I was still at Walter Reed Hospital, it was suggested by the surgeon at Walter Reed Hospital that I undergo two additional operations in order that I may utilize my arms more usefully. However, due to the financial hardships that have taken place during this time, it was impossible for me to undergo these operations.

Accordingly, on March 4, I asked to be discharged from the hospital, and it was necessary for me to return the following day to work without any benefits of recuperation and without any opportunity to become adjusted at home or in the community.

Last week, it was necessary for me to obtain additional medical care, and since my sick leave had been used up for 2 years in advance, I did not have any more sick leave due me.

According to existing law, 3 days have to elapse before any compensation can be paid. Accordingly, for the week's absence, only 2 days' compensation, which amounts to about \$8, was obtained for this week of absence. In addition, there were the expenses incurred for the care of my child while I was gone, while my wife was in attendance during my week's absence.

With regard to my training and education, I have a B. S. in chemistry, 2 years of graduate work leading to a master's in chemistry, and 1½ years of specialized work in explosives. Whereas I can say that my mental faculties have not been impaired in any way, most of my 9 years' experience with the War Department have been in laboratory research work, and to draw an exaggerated case, we might take the machinist who has a very fine knowledge of machinery, and after an accident of this type might still have his knowledge of machines, but could not utilize this knowledge.

At the present time, I have lost approximately 1 year's experience in my work and the 9 years of experience which I consider as practically completely lost. It will now be necessary to take about 2 years' additional training in order that I may branch off into some

other useful occupation. I consider that it will be several years before I can reach the same level of wage-earning capacity that I had prior to the accident.

I can go on presenting other facts in my case, but I think it would be more profitable if members of the committee had something definite in mind which they would care to question me about.

Are there any questions which members of the committee would care to ask specifically?

Mr. BAILEY. Mr. Irving?

Mr. IRVING. No; I have no questions.

Mr. BAILEY. Mr. Perkins?

Mr. PERKINS. Nothing, Mr. Chairman.

Mr. BAILEY. Mr. Burke?

Mr. BURKE. That is one question which I would like to ask, about the 3 days.

You mean that your last time lost was a result of the accident in the first instance?

Mr. COUNTS. Yes; I had to take a week off for additional medication.

Mr. BURKE. And then you had to lose another 3 days?

Mr. COUNTS. That is correct.

Mr. BURKE. Each time there is a loss of time?

Mr. COUNTS. There are 3 days.

Mr. BURKE. Do you know whether the same sort of condition would exist under the terms of H. R. 3191? Have you examined that yet?

Mr. COUNTS. From what I heard this morning, after a certain period, you are paid back the 3 days.

Mr. WIER. After 21 days.

Mr. BURKE. After 21 days, you do not lose that original 3 days. But I am just wondering if the same conditions would still apply. Now, in the various State laws, some of them go as high as 7 days, the first 7 days lost on any one accident, but if there are recurrent losses after the original 7 days, the recurrent losses are paid in full. I wonder if there is anyone else who does know whether that is provided for in this new bill.

Mr. SMITH. There is one man here who does. Ask Mr. McCauley. He always knows the answer.

Mr. McCAULEY. Mr. Chairman, there is only one 3-day waiting period for which the employee is charged. There is no additional waiting period on recurrence of disability.

Mr. BURKE. Would this young man be charged with an additional 3 days on his second loss?

Mr. McCAULEY. He would not be. There is one 3-day waiting period.

Mr. BURKE. I see.

Mr. COUNTS. I was on sick leave during the accident and had 2 years' advance. Now, with this new medication, I had to take additional time off. Is there only one 3-day waiting period?

Mr. McCAULEY. As I understand the gentleman, he has not been off the pay roll yet; is that correct?

Mr. COUNTS. During this week I was.

Mr. McCAULEY. He had no time charged against him at the beginning of that disability. So this 3-day waiting period for which he may be charged now is the only waiting period.

Mr. BURKE. I see. Then from here on out, if there are any recurrent losses of time, that original 3-day waiting period still applies, and under the new bill if he loses in excess of 21 days, he gets the 3 days back?

Mr. McCauley. That is correct, yes, sir.

Mr. BURKE. Thank you.

Mr. BAILEY. Mr. Wier?

Mr. WIER. Let me see if I get this picture clearly.

When you had this unfortunate accident, I presume that you started drawing \$116, which is the maximum?

Mr. COUNTS. Yes, sir; I have been in the Government service for 9 years, and I had my maximum of sick leave accumulated, which amounted to 90 days, or the equivalent of 18 weeks. And in addition, I was granted 2 years' sick leave in advance, which amounted to another 6 weeks.

Mr. WIER. You just said something about the fact that you had been on the pay roll right along. Is that what he means, by the pay roll, that you have been on compensation at least 6 months?

Mr. COUNTS. Yes, sir; because I have been on sick leave.

Mr. WIER. On sick leave?

Mr. COUNTS. Yes, sir.

Mr. WIER. Is that your own time?

Mr. COUNTS. Yes, sir; that is my own time.

Mr. WIER. And what you were drawing was credit?

Mr. COUNTS. Yes, sir.

Mr. WIER. No additional compensation, though?

Mr. COUNTS. No; I have not drawn any compensation as yet.

Mr. WIER. What have you been getting, let us say, per week or per month since the accident, since you were hospitalized?

Mr. COUNTS. \$350 per month.

Mr. WIER. You have been drawing that?

Mr. COUNTS. Yes, sir.

Mr. BURKE. That is his full pay.

Mr. WIER. That is his full pay; yes.

I was trying to determine this. He speaks of drawing his sick leave. That is not in addition——

Mr. COUNTS. Sick leave is different from compensation. You can draw either one or the other.

Mr. WIER. That is what I was trying to get clear.

That is all.

Mr. BAILEY. Mr. McConnell?

Mr. McCONNELL. Are you appearing here in support of H. R. 3191?

Mr. COUNTS. Yes.

Mr. McCONNELL. That is all.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. You say you have not drawn any compensation.

Mr. COUNTS. Except what I will draw for this week, for this past week where I had to be absent for additional treatment.

Mr. SMITH. Now, during the time you were in the hospital, did you draw compensation?

Mr. COUNTS. No, sir.

Mr. SMITH. You drew your regular salary?

Mr. COUNTS. Yes, sir.

Mr. SMITH. Have you been rated as to your disability?

Mr. COUNTS. I think under the law, loss of both hands is of necessity rated as complete disability, is it not?

Mr. SMITH. Complete disability?

Mr. COUNTS. I believe so.

Mr. SMITH. And what about your medical attention? You mentioned something about your doctor bills. Have they all been paid?

Mr. COUNTS. Yes, sir.

Mr. SMITH. By the Government?

Mr. COUNTS. Yes, sir.

Mr. SMITH. And you have been at no expense?

Mr. COUNTS. I have been to additional expense. I hope the committee will realize that in accidents of this type, where there are small children in the family, there are considerable emotional problems, and at no cost did I want this aggravated by any long-prolonged absence at home, and accordingly I had my family brought to Washington at the time I was at Walter Reed Hospital for 6 months. And if the committee is familiar with the cost of living in Washington, they may realize what expenses were incurred in addition to having to maintain a home at Aberdeen during this period.

Mr. SMITH. I recognize that fact. But the point that I am making is that all your hospital bills have been paid?

Mr. COUNTS. That is right.

Mr. SMITH. Your doctor bills have been paid?

Mr. COUNTS. That is right.

Mr. SMITH. And the only expense that you have been forced to is what you paid to have your family here in Washington?

Mr. COUNTS. Yes, sir.

Mr. SMITH. And you have returned to work at Aberdeen?

Mr. COUNTS. That is right.

Mr. SMITH. And you have the same job that you had before? You have the same classification?

Mr. COUNTS. In a similar field; yes, sir.

Mr. SMITH. What was that?

Mr. COUNTS. In related work; yes, sir.

Mr. SMITH. It is related work?

Mr. COUNTS. That is right.

Mr. SMITH. And then, in other words, you have suffered no financial loss by reason of your accident, in reduction of pay?

Mr. COUNTS. Yes; greatly from wage-earning capacity over a period of time.

Mr. SMITH. What was that?

Mr. COUNTS. I have lost a year's experience in the time I was in the hospital.

Mr. SMITH. I am talking about actual financial loss.

Mr. COUNTS. At the present time?

Mr. SMITH. Yes.

Mr. COUNTS. The expenses that my family had while in Washington, through my 6 months at Walter Reed Hospital.

Mr. SMITH. But the Government still pays you the same rate that you had prior to the accident?

Mr. COUNTS. Yes, sir.

Mr. SMITH. That is all.

Mr. BAILEY. Thank you, Mr. Counts.

At this time, the committee would be pleased to hear from the Justice Department, George Miller, James Bennett, and Capt. Albert H. Connors.

TESTIMONY OF JAMES V. BENNETT, DIRECTOR, FEDERAL BUREAU OF PRISONS, AND GENERAL CHAIRMAN, FEDERAL SAFETY COUNCIL

Mr. BENNETT. Mr. Chairman and gentlemen, I am James V. Bennett, Director of the Federal Bureau of Prisons, and I come to you this morning, gentlemen, in that capacity, and also in my capacity as immediate general chairman of the Federal Safety Council.

Mr. BAILEY. Mr. Bennett, may I interrupt you at this time? Do you have a prepared statement for the members of the committee?

Mr. BENNETT. No, sir; I do not.

Mr. BAILEY. Very well. You may proceed.

Mr. BENNETT. I come to the committee this morning in my capacity as Director of the Prison Bureau to tell you of some of the problems faced by some of the men who have been killed and injured in the Federal Prison Service. The hearing on this morning is a singularly interesting one, because it occurs exactly 3 years to the day after the riot we had at the Alcatraz Prison when three Federal employees were killed. One of these men was a man by the name of Harold P. Stites, who had been in our services some 17 years at the time he was on duty at Alcatraz, when two of our very desperate prisoners managed to get hold of some firearms by assaulting another officer after they had gained entrance to a guarded cage. They threw down a rifle and a pistol and then proceeded to try and shoot down one of the officers in a tower that guarded the door so that they could gain access to the island, take a hostage, and escape from the institution.

Mr. Stites, when the prisoners found they could not get out of the cell house, volunteered to enter one of the doors to the cell house, which is a tremendous, big building, and he had to come through a door like this one in the hearing room, and as he opened the door, unfortunately one of the prisoners on the top gallery picked him off just like that. He died immediately. He had been a faithful officer.

His widow now receives \$78.75 a month, his widow and one child. She had no money whatsoever at the time he died. The salary for that position, as you well can imagine, is not too high, being at that time about \$2,500 a year. The officers of the institution had to take up a subscription to meet her immediate needs. Also, the officers in the other Federal institutions contributed funds which, with the help of the men at the institution, were used to build Mrs. Stites a home outside the city of San Francisco, where she is now living and trying to raise some chickens and support herself with compensation from the Federal Government for the sacrifice of a very brave and courageous officer, and is now receiving \$78.75.

But there was another officer in that riot.

May I say before that that there were two officers killed, and nine officers shot down, one after the other, in cold blood, by a fellow named Joseph Cretzer, because he said, "They were just cops."

But there was another officer there, a man by the name of Miller. Mr. Miller was the officer on duty on the cell house floor. And before

these inmates could break into this cage, this iron-guarded cage in which the armed officer stood, they had to take over this Officer Miller, who was immediately on the floor. One of the prisoners had managed to get hold of a compass which he used in his educational work, and he went up behind Miller, grabbed him behind the neck and struck this compass into his throat, and with an oath and a curse demanded him to accompany him, and he locked him in a cell. He was the only officer on duty at that time, in addition to the officer in the gun gallery, whose attention had been attracted to another part of the cell house.

But Miller had the keys to the door that leads out onto the island proper. And when he got into the cell, the men were running around so that he had a moment to himself. He took the key which opened the outside cells, threw it on the floor, and stood on it. In a few minutes after they had gained the arms, 3 or 4 minutes, they came back to him and demanded his keys. And he handed them a set of keys, meanwhile keeping his foot on the key that opened the outside door, he knowing that that was probably what they sought.

They took these keys and went around and tried them, and they did not work. Then they came back to him and abused him and asked him where the other key was. He said, "I don't have it. The man up in the gallery has it," which was not true. But they abused him and beat him, and then this fellow Cretzer, having the pistol, cursed him out as another cop and shot him. He died as a result of that.

Meanwhile, he held his foot on the key in that cell, and the prisoners never did get it. And that saved the institution. That was the incident that prevented these men from getting out into the island and causing far greater bloodshed.

That man's widow and two children now receive \$96.25 a month.

I could go on with other cases of that kind, but I would just like to illustrate our problems to you. The lieutenant and the captain who were on duty at that time, both of whom were shot and no longer can serve the Government, each received the maximum allowed under this bill of \$116.66 a month. Another officer was killed at Alcatraz some 5 or 6 years ago, and his widow and four children now receive \$111.11 per month.

It is a matter of very considerable importance to me as the administrator of this system to be able to assure that these men, if something happens to them, and we have many assaults each day—no day, almost, goes by without an assault—it is a matter of very great importance to me and of the utmost significance to be able to assure these men that they will be treated fairly and justly, and that they will receive reasonable compensation. Otherwise, I cannot get them to serve in these difficult positions; otherwise, I cannot keep down the turn-over in our service which still runs pretty high.

So I plead with you gentlemen to enact it and to help do justice to such employees as these, who laid down their lives for their Government, voluntarily.

I say all that, gentlemen, on behalf of the Federal Prison Bureau. I have been in the Government service myself now for nearly 30 years, and during that time I have been very much interested in various matters relating to Government employees. Among other things, I have been very much interested in trying to improve the conditions

under which they work and see that they have a safe place in which to work and safe tools with which to work. I have seen so many accidents in our own service and elsewhere which could have been prevented. And so we have inaugurated in the Federal Prison System and elsewhere a safety program which has saved the Government tremendous amounts of money.

What I would like to say to you here is that I believe that whatever estimates have been made on the cost of this bill can be very much reduced by continuing pressure to reduce accidents and improve the safety work and the safety standards in the Federal service. It is a project in which the President himself is very much interested. He has addressed the Government officers on that subject, and as you know, has made his interest manifest in many ways.

I believe we can cut down this very large loss we have in the Government service by appropriate safety measures.

I do not know whether these figures have been presented to the committee, but I would like to say, to show you something of the scope of this problem, that during the past 10 years, there have been 4,327 Federal employees killed in line of duty; 11,283 have been totally disabled; and 5,228 during that 10-year period have been disabled during temporary periods. The average amount of leave, or lost time, as we call it, has been 28 days. All of these casualties resulted from injuries to Federal employees arising out of their occupation.

That is an appalling thing, incidentally, gentlemen, 4,327 men killed during 10 years. But the rate is downward, I am happy to be able to report, and the departments are taking an increased interest in safety and safety measures, some of them doing some excellent work. Other departments are not quite up to the same standard, but they are being alerted to the problem.

What I want to say to you gentlemen is that I do not believe that this bill, whatever the estimate has been, is going to cost as much as has been suggested, because I do not think you can judge the future cost of this bill on the basis of past history. I think we are going to cut down these accidents, and I think that we are going to find that the additional cost of the bill is rather nominal. I believe that for our own Service, if I can assure these people of the justice which I think is their due when they sacrifice themselves for the Government, then the turn-over in our Service will be less and thus the cost of the bill will be reduced.

I thank you very much, gentlemen, for hearing me, and I would be very glad, in either one of these capacities, to do anything I can to help forward the bill. I think it is a fine bill. It is long overdue, and one which will greatly improve the morale and efficiency of the Federal service.

MR. BAILEY. Does your associate, Mr. Miller, have a statement to file?

MR. BENNETT. Yes. Mr. Miller is going to talk on a related subject.

MR. BAILEY. You just remain here. We might want to ask you some questions.

We will hear from Mr. Miller.

**TESTIMONY OF GEORGE M. MILLER, ADMINISTRATIVE DIVISION,
DEPARTMENT OF JUSTICE**

Mr. MILLER. Mr. Chairman and gentlemen of the committee, I filed a brief statement which touches on one particular aspect of this bill, in which my office is considerably interested. My office is the Administrative Division of the Department of Justice, and the Administrative Division, acting under instructions of the Attorney General, supervises the operations of the United States marshals throughout the country.

Now, a United States marshal is an officer within the meaning and interpretation applied to that word under this old law. The men that help him are deputy United States marshals, and they are not officers. They are employees, and they are covered by this bill. As I said, the marshals are not covered; the deputies are.

My prepared statement describes three cases at some length and in some detail that will illustrate the disparity in treatment between an officer and an employee engaged on precisely the same kind of work.

The first case, which I will summarize very briefly, is where a deputy went out to eject a man from Federal property and in so doing the man shot and killed him. The marshal followed him a couple of hours later with two State officers, followed by a posse. The marshal approached the cabin where this man was hiding, and just got within range when he, too, was shot. He died very shortly. The widow of the deputy was entitled to compensation under this act. The marshal was entitled to nothing because he was an officer. The widow, incidentally, in line with the facts that Mr. Bennett has presented, received the sum of \$52.50 per month, the maximum allowable under the law, based on her husband's compensation, which was \$1,800 a year.

Congress saw fit to correct some of that and passed a private bill for relief, giving both widows \$5,000 each. And just recently there was an inquiry by a Congressman looking toward a private act to secure an increase in the compensation of this deputy's widow.

Now, the second case that I have here, and I will be as brief as I can, was where a United States marshal was transporting two prisoners, juveniles. He had his wife with him as a guard. Regulations permit the use of women as guards in transportation of young boys. The wife, of course, was not an employee, and not an officer, either.

In traveling along with the marshal driving and the wife in the front seat, one of the boys who had concealed a piece of iron up his sleeve struck the marshal over the head with the iron and also struck the wife, the guard. The marshal was temporarily stunned. The wife succeeded in slowing down the car and after a bit the marshal came to, and between them they subdued these boys.

I am using that as an illustration of the fact that here is a non-Government employee going along in the capacity of guard, and the non-Government employee, through the operation of the present compensation act, is entitled to compensation growing out of an injury when thus employed. The marshal would have been entitled to nothing, had the injury been fatal, as was suspected later on when the marshal died within the course of about a month, and an autopsy was made to see whether or not his death was attributable to that assault in the car.

The third case is that of a marshal who is still suffering as the result of an injury while transporting prisoners in an automobile. He was traveling at night. The road was slippery, highly crowned, and there had been some construction work so that he was forced off to one side. He slid around, turned over into a ditch. As I said, it had been raining, and the ditch was full of water. The marshal was thrown out of the car and pinned under the car, and just barely had his head out of the water. He suffered some very severe injuries. He is still undergoing treatment. Hospital bills up to the present time and other expenses have totaled in the neighborhood of \$4,000. He is continuing to serve. He has recovered somewhat and is continuing to serve as best he can.

Gentlemen, these are the illustrations that I have tried to bring before you to show the disparity in treatment between the officer and the employee engaged on identically the same work. It seems only fair that if an injury should occur, some provision should be made whereby the aftereffects could be handled with equal treatment in the two cases.

I am confining my testimony solely to section 108 (b), the first clause, that the term "employee" is to include all civil officers and employees of all branches of the Government of the United States.

Thank you.

MR. BAILEY. The members of the committee may direct their questions, if they have questions to ask, either to Mr. Bennett or Mr. Miller.

Mr. Irving?

MR. IRVING. No questions.

MR. BAILEY. Mr. Perkins?

MR. PERKINS. Nothing.

MR. BAILEY. Mr. Burke?

MR. BURKE. I do not quite understand this. You say you object to the wording of section 108 (b) ?

MR. MILLER. No, sir; I do not. I was confining my testimony solely to the proposed change there that would broaden the scope of the act so that the term "employee" would include all civil officers, officers and employees as well. I am in favor of it.

MR. BURKE. In other words, you are in favor of the wording as it is?

MR. MILLER. I am in favor of it; yes, sir. And I simply tried to say that I was confining my remarks to the specific problem that is involved in section 108 (b) (1), and the Department of Justice definitely is in favor of it, and had written the Bureau of Employees' Compensation along that line just about the time this bill, H. R. 3191, was introduced. The Employees' Compensation Commission wrote back and asked us to assist in whatever way we could toward pointing out the problems that arise under the restricted application of the old law.

MR. BURKE. You feel that section 108 (b) (1) will meet that problem?

MR. MILLER. I do.

MR. BURKE. In the one instance that you have cited of the lady who was guarding the boys, had she been injured to such an extent that it would ordinarily have been considered a compensable injury, I should like to direct your attention to section 108 (b) (4) :

Persons rendering personal services of a kind similar to those of civilian officers or employees of the United States or to any Department, independent

establishment, or agency thereof (including instrumentalities of the United States wholly owned by it), without compensation or for nominal compensation, in any case in which acceptance or use of such services is authorized by an Act of Congress or in which provision is made by law for payment of the travel or other expenses, of such person ;

Would that not meet that situation?

Mr. MILLER. It would meet that situation, Mr. Burke. I do not mean to imply in the illustration that I used that the lady would not have received compensation had the injuries been sufficient to justify the compensation. The Employees' Compensation Commission and, latterly, the Bureau of Employees' Compensation do take that very kind of case under the present law. But that individual, technically speaking, is not an employee of the United States if the Comptroller General of the United States is any authority. The Comptroller holds that a guard employed by the United States marshal is an employee of the marshal, but the Commission leaned over backward, I think, and allowed compensation in those cases, as, I think, it should have.

Mr. BURKE. But this definition will take care of that?

Mr. MILLER. This definition will take care of any doubt on the point.

Mr. BURKE. That is all.

Mr. BAILEY. Mr. Wier?

Mr. WIER. What happens in the third department here, with an internal-revenue agent? Is he an officer or an employee? That is another group that is up against the same thing that your two groups are up against, especially if he gets up in the moonshining country.

Mr. MILLER. Mr. Wier, I am not prepared to say. I do not know what the rulings have been on internal revenue. But the probabilities are that they would consider those men as employees, since they are acting under the direction of a higher governmental officer. I was just reading the Attorney General's opinion this morning in an attempt to differentiate between an officer and an employee. And if you are carrying out the functions of government, you are an officer. But if you merely assist in the carrying out, you are an employee. I should say that the Alcohol Tax Unit man would be an employee within that view.

Mr. BAILEY. Mr. McConnell?

Mr. McCONNELL. I have no questions.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. Mr. Bennett, what are the percentage figures on the decrease in the number of accidents in your own particular department?

Mr. BENNETT. I would have to supply that for the record.

Mr. SMITH. It is not important. I would just like to know.

Mr. BENNETT. It is decreasing a little each year.

Mr. SMITH. And you attribute it to higher-classed personnel or to a safety campaign?

Mr. BENNETT. To both, but largely to a safety campaign and largely to guarding of the equipment and guarding of the machinery, and all those technical things that a safety engineer in a safety campaign can do.

Mr. SMITH. Do you have a safety officer in each one of your prisons?

Mr. BENNETT. Yes, sir; we have a safety officer in our Bureau and we also have a safety committee in each institution. It is their job to

check over all the equipment and eliminate every hazard, to hold frequent meetings on the subject, and award prizes and all that sort of thing to keep up an interest in safety. And that is a thing that I think can be done and is being done by a lot of other departments.

Mr. Piozet of the Navy Department will be here, and they have done an excellent job of reducing accidents in the Navy Department. And I think we can go much further than we are going.

Mr. SMITH. That is all.

Mr. McCONNELL. Is it customary for marshals to use women as guards in a lot of these cases?

Mr. MILLER. Mr. McConnell, on that point, as I said a minute ago, it is the Department's attitude that when they transport younger boys, they may use a woman guard because of the theory that the gentler influence of the female sex there might keep the boys from——

Mr. McCONNELL. Swinging a crowbar?

Mr. MILLER. Well, no; not that. But they might pacify the boy to some extent, keep his mind off his troubles, and sort of mother him. It is not always done. It is within the discretion of the United States marshal, who is primarily charged with the responsibility of that transportation. I can give you an illustration of where, if the boy were being transported, a woman along might have eased the boy's mind. This is a particular case of where a juvenile was being transported, and that boy did everything in the world to get the officer to draw his gun and shoot him. Several times he cried out, "Why don't you shoot me?"

Apparently the boy was in such an upset state of mind that if someone would have reasoned with him, as some motherly sort of woman might have done, he might not have had that attitude.

Mr. BAILEY. Thank you, gentlemen.

Mr. BENNETT. Mr. Chairman, would it be appropriate for me to file a list of officers in our service who have been killed in recent years, and their compensation?

Mr. BAILEY. I do not know that there would be any objection to it. I do not know that it would serve any particularly good purpose.

Mr. BENNETT. Then there is no use in putting it in.

Mr. BAILEY. I am inclined to think that the committee is disposed toward this legislation.

Mr. BENNETT. Thank you very much.

Mr. BAILEY. At this time, there is a disabled employee here, Edward P. Rogers.

The committee will hear you at this time.

TESTIMONY OF EDWARD P. ROGERS, FORMER EMPLOYEE OF EDGEWOOD ARSENAL

Mr. ROGERS. Mr. Chairman and members of the committee, my case is very similar to the one that Mr. Counts related. I left the service in February of 1946, and in May of 1946 I was employed as a chemical engineer doing research in munitions at the then Edgewood Arsenal.

On October 31, 1946, in the performance of my duties, in accordance with the program discussed with me by my supervisor previous to the start, after having submitted samples of the material to the

Bureau of Mines for sensitivity tests to determine the safety of working with the material, I proceeded with the program.

During the mixing of the material, which I am not at liberty to divulge, there was an explosion. The mixture in which I was preparing some materials was disintegrated. You can see that I lost both of my arms. Both of my legs were fractured. I was made sterile. I had face injuries and several shrapnel injuries to the lower part of my body. I was hospitalized for a total of 10½ months. In December I had used up all of my annual leave, had been extended the maximum sick leave, and was forced to go on compensation.

While I remained in the hospital, the total compensation was \$116.33 a month. My wife was forced to give up the apartment which we had just rented because we could not afford it. She moved and she stayed in a rooming house in Baltimore with me as long as I was in the hospital there. Through the efforts of my wife and sympathetic members of Congress, I was transferred to Walter Reed hospital for further treatment.

When I first reached Walter Reed I had an attack of jaundice which delayed my recovery for about 10 weeks. This was due to a transfusion I had received in earlier treatment. I do not mean this as a disparaging remark on the treatment I received, because it often happens, transfusions resulting in jaundice.

After recovery from the jaundice I underwent another operation on each of my stumps, and in August I was fitted with prosthesis.

In dealing with my legs, my right leg was shortened approximately 1 inch. My knees have remained stiff. I only have limited use of my knees. I can sit in a chair and I can rise from a chair, but I cannot sit on the floor. I am subject to falling, and if I do fall, I cannot get up.

I returned home the latter part of August. I left the hospital early for financial reasons. Out of the hospital I could draw an additional \$50 a month for an attendant, having been declared totally and permanently disabled. I could also as a veteran draw a small pension from the Veterans' Administration as long as I was not working, which brought my total compensation to approximately \$225, \$60 of which came from the Veterans' Administration on the veterans' pension for a nonservice disability.

I returned to work the latter part of October with braces on my legs. The doctors would not let me walk without braces. And I continued to work. I was employed as a chemical engineer to begin with. When I returned it was requested that I accept a job as safety engineer, and I have been working in that capacity ever since.

I was mighty glad that Mr. Bennett brought that point up in his testimony. I have become gravely interested in this work; and I feel, as Mr. Bennett does, that a great portion of the expense of this bill can be covered through an expanded safety program throughout the Government. I know that the Army has done good work in their establishments in this line. The losses can be reduced through the employment of an aggressive personnel. Through one year there was a 75-percent reduction in lost-time injuries in 1947. In deaths alone, the day previous to my injury, two men were killed at Edgewood arsenal in an accident. In September of 1947 two more men's lives were lost as a result of an accident. These men are engaged in munitions-research work, which is, of necessity, a dangerous operation. It

is only through progressive safety work that these accidents can be prevented.

I would also like to bring out that I have suffered monetary losses, extreme monetary losses. Everything that I had I had to spend. I have gone back to work. The people that I worked for have been very considerate. But that does not replace the loss that I have suffered, nor that thousands of others have suffered, not only myself. I believe that the intent of the President, when he vetoed the bill for my relief, was that any new compensation bills should include those who had losses previously.

You are probably familiar with the bill to which I refer. It came up last year as an individual bill to compensate me. It was passed by the House and the Senate but vetoed by the President, with regret, strongly emphasizing the need for a more adequate compensation law for Federal employees.

If there are any questions that members of the committee would like to ask, I shall be glad to answer them.

MR. IRVING (presiding). Mr. Burke?

MR. BURKE. You are now employed as a safety engineer, you say?

MR. ROGERS. Yes.

MR. BURKE. In the same arsenal?

MR. ROGERS. The same command.

MR. BURKE. You feel that the safety program is really going on apace?

MR. ROGERS. I feel it is of great benefit to the Government as a whole. The President's Conference on Safety stated that during 1948—I believe it was 1948, either 1947 or 1948—the cost of industrial accidents in Federal employment was something over \$9,000,000; that is in compensation alone, compensation and medical expenses. And experience has shown that, where you have the so-called direct cost of accidents in industrial work, there is in the ratio of at least 4 to 1 in indirect expense which is not covered.

MR. BURKE. I think you are right. In fact, in private industry in extremely hazardous occupations, a good aggressive and progressive safety program has cut the cost not only as far as compensation is concerned, but in many cases has even cut the cost of operations.

MR. ROGERS. That is true.

MR. BURKE. That is, in the long run.

MR. ROGERS. That is true. The du Pont company is a perfect example of that.

MR. BURKE. That is all, Mr. Chairman.

MR. IRVING. Mr. Wier?

MR. WIER. No questions.

MR. IRVING. Mr. Smith?

MR. SMITH. No questions.

MR. IRVING. Thank you very much.

MR. ROGERS. I just want to put a final plea that this bill will be made retroactive to cover those persons who have been injured previously.

MR. BAILEY (presiding). The committee thanks you for your statement.

Is someone here from the National Defense Establishment?

Mr. PIOZET. I am, Mr. Chairman. I am Charles Piozet, special assistant in the Office of Industrial Relations, in the Office of the Assistant Secretary of the Navy for Air.

Mr. BAILEY. You may proceed.

TESTIMONY OF CHARLES PIOZET, SPECIAL ASSISTANT, OFFICE OF INDUSTRIAL RELATIONS, OFFICE OF ASSISTANT SECRETARY OF THE NAVY FOR AIR, NATIONAL MILITARY ESTABLISHMENT

Mr. PIOZET. Mr. Chairman and members of the committee, at the outset I should like to express my appreciation for the opportunity you have afforded me to appear here.

The departments comprising the National Military Establishment have a very direct and vital interest in H. R. 3191. In accordance with the policy of the Secretary of Defense, as well as to conserve the time of all concerned, I have been designated to present a coordinated report on this bill for all three services.

The National Military Establishment supports this bill wholeheartedly and urges its speedy enactment. We believe that the need for it is readily apparent to all who are familiar with the benefits currently extended to employees of the United States who are injured in line of duty. The Federal Government at a very early date recognized its responsibility for persons who are victims of industrial accident or disease. Unfortunately, this early achievement has not been followed by modernizing amendments. Accordingly, we view H. R. 3191 as an effort to bring the Employees' Compensation Act up to date in terms of present cost of living and in accordance with developments in State and Federal workmen's compensation legislation over the past 30 years.

We have not attempted to collect extensive statistical data on this subject. I am sure that the Bureau of Employees' Compensation has already presented a comprehensive analysis of the over-all operation of present legislation. Certainly we could add little to its presentation, and we are content to indorse its views and to supplement them with additional data in the nature of individual cases and problems which are well known to operating agencies but which might have escaped the cognizance of the Bureau.

As you have been told many times, one of the great shortcomings in the present statute results from the dollar limitation on monthly benefits. It seems fairly obvious that \$116.66 per month offers no substantial security during a period when it is not unusual to find the family rental bill consuming almost the whole of that amount. The personnel offices of Army, Navy, and Air Force installations, almost without exception, are deluged by complaints from employees who become disabled from work-connected injury or disease, and who as a result find themselves in financial straits.

Likewise, it is almost invariable that employees elect not to use their workmen's compensation rights if there are any alternative resources available to them by which they can remain in a pay status. One of those resources is, of course, the sick- and annual-leave balance which the employee may have accumulated. We know, however, that it is a very rare case in which an employee elects to take the benefits of the Employees' Compensation Act immediately if he has any leave

balance to his credit. In a great many, probably the majority, of instances where disability is of short duration—perhaps up to one month—the injured employee never receives any benefits under the act, being required by circumstances to use his leave for that period.

An outstanding example of this occurred in a west-coast Army installation where an employee was injured when a forklift overturned crushing his hand. Three fingers were amputated and about half the functions of the right hand were lost. This individual was totally disabled for over 6 weeks, but used all of his sick leave and 5 weeks of annual leave in order to meet living expenses. He received no injury compensation from the United States except medical expenses. He has lost the skill required in his former job and has been given no compensation to cover the personal hardship entailed in getting along with one hand or for the loss of the right to work in his chosen profession.

A similar situation exists in those cases where employees were permanently disabled. Those who have five or more years of service may, of course, take advantage of the disability provisions under the Retirement Act. But, if they do, no benefits may be paid under the Employees' Compensation Act. We have seen many instances where employees have been forced to make this decision. It seems entirely unfair that this should be necessary simply because the employer is not able to discharge his full responsibility when injury occurs. The employee has paid for a large part of his retirement annuity; at present 6 percent of his salary goes to that fund. When he waives his disability compensation benefits, the employer is not paying his proper share in alleviating the consequences of industrial health and accident risks.

In many instances, capable scientists have refused to work on certain hazardous chemical and biological agents which we are under obligation to investigate in order to fulfill our mission. Their refusal is based upon the fact that such work involves a considerable risk on their part and on their knowledge that in the event occupational illnesses are contracted no adequate compensation provision is available for the support and care of their families.

Continuous efforts must be made to improve conditions under which scientists work in the Federal Government in order to insure a more favorable atmosphere for research. Since the Federal Government possesses the most varied and extensive research and development program of any single employer, a physical plant and equipment as modern as any, it is felt that there is a definite need for improvement of the current disability compensation plan.

We are also very glad to see in this bill the change proposed by subsection (b) of section 108, relating to coverage for persons serving without or at nominal compensation. This subject was the cause of great concern and embarrassment to the National Military Establishment Departments during the war. In one instance, a very highly regarded radio engineer was loaned to the Government by his private firm. While serving as a consultant without pay, he was killed when a plane in which he was riding was shot down over the Mediterranean. Neither the War Department nor the Bureau was able to give any relief to this man's widow and family and a private bill failed of enactment in the Seventy-ninth Congress. Patriotic Americans showed great willingness to give their services to the Nation in time of emergency. We sincerely hope that this bill will make it possible to ac-

cept their services without a sense of concern arising from the knowledge that if injury or death strikes we shall not be able to offer reasonable compensation.

The particular interest of the National Military Establishment Departments is focused upon the proposed amendments to section 104, which provide for a schedule of payments for loss of, or loss of use of, a member or function of the body, or disfigurement, in addition to compensation for temporary total or temporary partial disability. The proposed payments are in contrast to existing statutory provisions which do not provide for any type of cash settlement as compensation for the subsidiary results of injury, including pain and suffering, personal inconvenience, and loss of future advancement in the disabled employee's trade or profession. These cash payments would also aid materially in meeting additional expenses which always seem to arise when misfortune strikes a family.

A case which graphically illustrates these points took place at the United States Army Columbus General Distribution Depot, Columbus, Ohio. An employee working as a brakeman was involved in a train accident which resulted in the amputation of his right arm at the shoulder. He was disabled for approximately 4 months. The loss of his arm, including the shoulder socket, physically disqualified him for the more rigorous duties of his position, but upon recuperation he was continued on the rolls in his capacity as a brakeman, but had to be assigned special work such as checking signals in the railroad yards, and inspecting tracks and switches. Ultimately, as a result of his incapacity, it was necessary to reassign him to a laboring position and finally, after curtailment of operations at the depot, he was separated for reduction-in-force. This employee could not be compensated for lifelong loss of earning power, to say nothing of personal inconvenience and pain occasioned by the loss of his arm. The installation in this case, as in many other cases on record, was not able to maintain this employee on the rolls, even in a position of inferior skill.

We have another case that we want to cite here, but you have heard from the individual himself this morning, a disabled employee who was Mr. Jules Counts. He was a chemist who lost both hands in an explosion while working at the research laboratories at Aberdeen Proving Ground. He was hospitalized at Walter Reed General Hospital here in Washington. Upon recommendation of his physician that his wife be as near to him as possible during his period of convalescence, it was necessary for her to obtain accommodations here and to provide for the care of their child in her absence. Both of these conditions placed additional expense upon the family for which no compensation could be provided. The disabled employee had completed the major portion of the requirements for Ph. D. degree in the field of organic chemistry. Because of his injury, he has been unable to continue the laboratory work which is essential to the completion of his doctoral thesis. This must be considered as a potential loss of earning power, since his physical handicap will limit the advancement which he anticipated upon attainment of his degree.

The proposed amendments to section 104 providing for a fixed schedule of payments, together with the provision for a maximum of \$50 per month for vocational rehabilitation as proposed in section 105, would not only aid in compensating for the more personal losses

resulting from injury but would also serve as an additional source of funds during the recovery period and provide for readjustment to some other type of employment when necessary. The importance of the provision for scheduled payments cannot be overemphasized. If it were always possible for a National Military Establishment installation to continue a partially disabled employee on the rolls, even in a position of inferior skill and lower salary, payment for disability would not be so vital. However, as has been shown, it often becomes necessary for an installation, because of reduction in force caused by change of mission or curtailment of operations, to separate a partially disabled employee who then finds it extremely difficult to obtain other employment.

Under existing statutes the Federal Government does not in many cases provide as favorable treatment to its own employees as that afforded by the States under their workmen's compensation laws. Most State laws have long provided for lump-sum payments for loss of members, loss of use of members or functions, or disfigurement. An actual case is cited here to illustrate the differences in treatment under the Federal Employees' Compensation Act and under the workmen's compensation laws of a State in which a particular accident took place. An employee of the Charleston Ordnance Depot, North Charleston, S. C., lost an eye and a finger in an explosion. The eye socket was damaged to such an extent that an artificial prosthesis could not be fitted and it is now necessary for the employee to wear a black patch over his eye. Since, upon recuperation, the disabled employee returned to work in his former position, he was not entitled to compensation for the loss of the eye nor for the physical disfigurement he suffered. Had this same accident occurred in a private industrial plant in the State of South Carolina, the employee would have received, under the Workmen's Compensation Act, in addition to medical expenses, a total of \$3,182.40. Under the Federal Employees' Compensation Act he received only temporary partial disability compensation for the actual lost time, and medical expenses. We, in the National Military Establishment, believe that the Federal Government should meet at least the average of benefits provided by the States.

Proposed amendment to section 105 provides an increase of from \$50 to \$75 for the services of an attendant when such services are deemed necessary because of the nature of the disability. It appears obvious that neither the former amount nor the proposed increase is sufficient to pay for the services of a trained attendant. However, I understand that this allowance was never intended to be used for the purpose of securing services from outside the household of the disabled employee. Rather, the intent is to provide an additional payment when constant services are provided by a member of the family who otherwise would be employed. Even for this purpose the proposed increase cannot be deemed to be other than equitable, since almost any type of outside employment for a member of the family would pay more than \$75 per month.

Increase in the burial allowance for an employee who is killed in line of duty is provided by the proposed amendment to section 107 of the act. The increase is from the present allowance of \$200 to not to exceed \$400. The equity of this adjustment hardly need be mentioned. However, an actual case will point out the extreme inequity of the present allowance. In 1943, even before prices had risen to their

present levels, a 16-year-old boy, employed on an emergency river project by the Corps of Engineers, was fatally injured. The boy was one of a large family of very limited means. His family was unable to prove that they were dependent upon him and so could not secure compensation for his death. The only compensation provided by the Government to this family was the \$200 burial allowance which did not pay the funeral expenses. At last report the family still owed a balance of \$95.30 on the cost of the funeral.

In conclusion, I should like to reiterate the need for reasonable financial protection of our civilian employees in the National Military Establishment when disability or death occurs in line of duty. Our work is of such nature that our need is perhaps even greater than that of most other agencies. We are constantly striving to reduce the hazards of employment in our industrial establishments but accidents do happen and when they happen we want to do everything we can to compensate for the losses which our employees suffer.

Aside from the strictly humanitarian aspects of reasonable compensation for injury or death, the National Military Establishment has a definite need to attract the best and highest type employees, especially in the scientific and technical fields. Competition for this type of personnel is severe. If we are to attract the definitely superior individuals we must be able to offer reasonable financial protection for injury as one element of the employment contract.

Mr. Chairman and members of the committee, for these and for other reasons which time has not permitted me to cover, the National Military Establishment wishes to go on record as lending full support to H. R. 3191.

Mr. BAILEY. Mr. Piozet, in the groups for the national defense set-up, will there be any additional employees, or will all be covered by the present act?

Mr. PIOZET. They are all covered by the present act. The total employment runs one-million-and-one-hundred-and-some-odd thousand, approximately, of which one-half is blue-collar, or industrial workers, and the other half white-collar, or administrative, scientific, technical, and clerical personnel.

Mr. BAILEY. You are interested in the benefits which this compensation would provide?

Mr. PIOZET. That is correct, sir; definitely.

Mr. BAILEY. Mr. Burke?

Mr. BURKE. No questions.

Mr. BAILEY. Mr. Irving?

Mr. IRVING. No questions.

Mr. BAILEY. Mr. Perkins?

Mr. PERKINS. No questions.

Mr. BAILEY. Mr. Wier?

Mr. WIER. No questions.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. No questions.

Mr. BAILEY. I believe the next witness here is from the Department of Commerce, Francis R. Cawley, Director, Office of Budget and Management.

Mr. CAWLEY. That is correct.

TESTIMONY OF FRANCIS R. CAWLEY, DIRECTOR, OFFICE OF
BUDGET AND MANAGEMENT, DEPARTMENT OF COMMERCE

Mr. CAWLEY. Mr. Chairman, I want to thank you and the members of the committee for this opportunity to present the Department's support of this bill, and also to speak from some personal experience that I have had on the matter, if the committee desires.

I have a letter here from the Secretary of Commerce which I should like to offer for the record.

Mr. BAILEY. If there is no objection, it will be included in the hearings of the committee.

(The letter referred to is as follows:)

DEPARTMENT OF COMMERCE,
Washington, April 11, 1949.

CHAIRMAN, COMMITTEE ON EDUCATION AND LABOR,
United States House of Representatives, Washington, D. C.

DEAR MR. CHAIRMAN: This letter is to state the position of the Department of Commerce concerning H. R. 3191, a bill to amend the Federal Employees Compensation Act (39 Stat. 742).

The Department strongly favors the bill's provisions to: (1) Increase benefits to the extent necessary to afford injured employees, or their dependents in case of death, reasonable and fair protection from losses resulting from injury sustained in the performance of official duty; (2) extend coverage of the act in appropriate instances; and (3) facilitate administration and provide for a more equitable determination of benefits.

We consider the provisions of the present act to be largely antedated and unjust. For example, the existing ceiling of \$116.33 per month, established in 1927, as compensation for total disability incurred in the performance of official duties is considered under present conditions to be inequitable and unfair to injured employees. Not only is the dollar amount completely unrealistic in the light of current economic conditions, but it disregards the equitable relationship which should exist in a workman's compensation plan between the wage loss resulting from injury and the disability benefits. The economic impact of any disability upon a worker is directly related to his wage loss and should be so recognized, we believe, as proposed in the subject bill. The present law, in comparison, unjustly forces a disruption of the employee's financial ability to maintain his family, down to a point which can be construed only as a bare subsistence level under current conditions.

The other provisions of the proposed bill to provide for a more equitable determination of benefits in case of partial injury; more reasonable payments to widows and children in case of death; and improved methods of administration are likewise considered to be highly desirable.

We believe that the beneficial program contemplated by H. R. 3191 is long overdue. We therefore are grateful for this opportunity to express our support of the bill and to urge that it be favorably considered by your committee.

In view of the urgency of this matter, it has not been possible for the Department to ascertain from the Bureau of the Budget as to whether or not the proposed legislation would be in accord with the program of the President.

Sincerely yours,

CHARLES SAWYER,
Secretary of Commerce.

Mr. CAWLEY. Mr. Chairman, I also have a statement which summarizes that letter, copies of which have been filed with the committee, and I should like to read this statement, if there are no objections.

Mr. BAILEY. You may proceed.

Mr. CAWLEY. The Department of Commerce strongly favors the bill's major purposes of (1) increasing benefits to the extent necessary to afford injured employees, or their dependents in case of death, reasonable and fair protection from losses resulting from injury sustained in the performance of official duty; (2) extending coverage of the act

in appropriate instances; and (3) facilitating administration and providing for a more equitable determination of benefits.

There exists a critical need for a general increase in benefits in recognition of present economic conditions. The ceiling of \$116.33 per month, established in 1927, as compensation for total disability incurred in the performance of official duties, is believed, in the light of current wage levels, to be inequitable and unfair to injured employees. The dollar amount of this maximum benefit not only is completely unrealistic in terms of our present economy, but it disregards altogether the equitable relationship which should exist in a workman's compensation plan between the actual wage loss resulting from injury and the disability benefits substituted therefor. The economic impact of any disability upon an employee is directly related to his wage loss and should be so recognized, we believe, as provided in the proposed bill. The present law, in comparison, unjustly forces an extreme disruption of the employee's financial ability to maintain his family, down to a point which represents only a bare subsistence level under current conditions.

In addition to not providing adequate benefits for total disability, the present law similarly restricts benefits for partial disability, and imposes an arbitrary and unreasonable maximum upon payments to widows and children in case of death. Further, the provisions of the existing law fail to meet the proportionately greater financial needs of the family group. The proposed increased compensation in the cases of employees having one or more dependents is considered essential to prevent family financial distress occasioned by disability or death and consequent unexpected and immediate loss of income. The Department endorses the principle of augmenting all benefits for employees with dependents, and urges its full application as provided in the subject bill.

The proposed new methods for computation of pay, and computation of wage-earning capacity, increases in compensation for attendants as required, increase in maximum allowable for funeral and burial expenses, and increases of the computation base where injury occurred before July 1, 1946, are likewise considered to be highly desirable.

Apart from this expression of the views of the Department I might say that I can speak from personal experience in this matter. Two years ago while on the performance of official duties, I was seriously and critically injured in a traffic accident. Until such time as I was fully assured that I might recover, the future welfare of my wife and three small children was of considerable concern to me. Based on the maximum benefits allowable at that time, their future appeared to be indeed bleak. If the committee desires I shall be glad to discuss the matter in fuller detail.

Before closing I want to express publicly my appreciation of the excellent assistance given me by the Bureau of Employees' Compensation. The services rendered on my behalf, particularly as they related to prompt clearance with respect to the use of nearby hospital facilities and the obtaining of medical specialists were very commendable. I was greatly pleased with their prompt and adequate service.

Thank you, gentlemen.

Mr. BAILEY. If you care to, you might relate some more details there of that accident.

Mr. Cawley. Mr. Chairman, on March 11, 1947, I was returning from a hearing before the House Subcommittee on Appropriations, and as the car in which I was riding crossed Fourteenth Street and Madison Place, we were struck by another automobile, and I regained consciousness at 10 o'clock that night in Emergency Hospital. I was later told that I had suffered a very serious depressed skull fracture on the left side of my head, an area of about 5 inches in length, and about 3 inches in width, and it was fully depressed about three-sixteenths of an inch. I was on the critical list for about 10 days, and eventually I recovered.

However, until such time as I was assured that recovery would be forthcoming, I was quite concerned about the future welfare of my family. Now, as has been testified here this morning, I did not apply for compensation. I had sufficient annual and sick leave to cover the period of my absence from the office, which was about 60 days. Also, the Bureau of Employees' Compensation underwrote all my medical expenses, and subsequently paid those. Also, in the case, after I had fully recovered, I was able to file a claim against the party who struck the car and obtained a rather satisfactory settlement from his insurance company. So as things worked out, and provided, sir, that I do not have serious residual effects from this accident, it was not as bad as I had anticipated at the time.

However, had I not survived the accident, the maximum of \$116.33 would have been most inadequate for the future care and welfare of my wife and children.

Mr. BAILEY. Someone else under similar circumstances might not be so fortunate as you.

Mr. Cawley. That is correct, sir. I have been assured that as the years go on and the residual effects become less and less, the chances are pretty good that I will have no further trouble. But one cannot tell. That kind of injury to the head, and also close to the brain, is pretty dangerous.

Mr. BAILEY. Do you have any questions, Mr. Irving?

Mr. IRVING. I have no questions.

Mr. BAILEY. Mr. Burke?

Mr. BURKE. No questions.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. No questions.

Mr. BAILEY. Thank you, Mr. Cawley.

Mr. Cawley. Thank you, Mr. Chairman.

Mr. BAILEY. Mr. N. P. Alifas, president, district 44, International Association of Machinists.

You may be seated, Mr. Alifas.

Mr. ALIFAS. Thank you, sir.

Mr. BAILEY. Give your name and occupation.

TESTIMONY OF N. P. ALIFAS, PRESIDENT, DISTRICT NO. 44, INTERNATIONAL ASSOCIATION OF MACHINISTS

Mr. ALIFAS. Mr. Chairman and gentlemen of the committee, my name is N. P. Alifas. I am president of district No. 44 of the International Association of Machinists, and am authorized to speak on behalf of the International Association of Machinists on bills before

Congress relating to Government employees and in which our organization is interested.

On behalf of our organization, I take this opportunity of endorsing the Lesinski bill, H. R. 3191, the purpose of which is to liberalize the Federal Employees' Compensation Act of September 7, 1916, as amended by the act of February 12, 1927.

At the present time, the maximum amount of compensation which an injured Government employee can receive under the schedule of compensation established by the act of February 12, 1927, is \$116.66 per month, that being two-thirds of \$175 per month maximum salary to be considered in setting compensation.

On the other hand, the minimum in case of disability is \$58.33 per month.

The cost of living, salaries, and wages have materially increased since 1927; and there is therefore a dire need for an increased schedule of compensation for employees who are now under compensation as well as for those who may hereafter come under the provisions of the act.

In view of the fullsome testimony which has been presented to your committee by representatives of the Bureau of Employees' Compensation of the Federal Security Agency and by some of my colleagues representing organized labor, I do not desire to speak at length upon the many meritorious features of the 36-page bill before you, other than to say that our organization is in substantial accord with the general provisions of the bill.

As we understand it, the bill, among other things, provides—

(1) An increase in the minimum compensation from \$58.33 to \$112.50 per month.

(2) While the basic compensation is limited to two-thirds of the salary of the employee, there is no maximum salary established, that compensation under the present range of salaries will be correspondingly higher since wages and salaries are higher now than they were in 1927.

(3) The present law does not provide additional compensation to the individual by reason of dependents. The pending bill grants an additional $8\frac{1}{3}$ percent in case the injured employee has dependents.

(4) Current law allowed only \$50 per month for an attendant in case the injured employee needs one. The bill before you, and as I understand it, increases this item to \$75 per month.

(5) Employees who were on compensation rolls prior to January 1, 1941, will have their compensation increased 40 percent; those placed on the rolls between January 1, 1941, and July 1, 1946, will have it increased by 10 percent, but in neither case shall the increase exceed \$50 per month.

Other benefits under the current compensation law appear to have been increased proportionately and benefits extended to situations not heretofore covered.

Our organization believes this is a splendid bill, and trusts your committee will do its utmost to secure its speedy enactment.

I might add that as an officer of our organization, I feel that I can wholeheartedly endorse the testimony that was given a little while ago by Mr. Piozet on behalf of the Department of National Defense. Our association has most of its members who are Federal employees employed in that Department. They are working on hazardous work.

They are more interested in safety appliances, of course, and in safety programs to avoid accidents than they are in getting compensation.

Naturally, they want compensation to be adequate to compensate them for the loss of time and the inconveniences due to accidents.

That is all, Mr. Chairman.

Mr. BAILEY. Do you have any questions, Mr. Irving?

Mr. IRVING. No questions.

Mr. BAILEY. Mr. Burke?

Mr. BURKE. No questions.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. No questions.

Mr. ALIFAS. Thank you, gentlemen.

Mr. BAILEY. Thank you, Mr. Alifas.

The Department of Agriculture, represented by William A. Minor, Assistant to the Secretary.

Mr. MINOR. Thank you, sir.

TESTIMONY OF WILLIAM A. MINOR, ASSISTANT TO THE SECRETARY OF AGRICULTURE, DEPARTMENT OF AGRICULTURE

Mr. MINOR. Mr. Chairman, I do not have a prepared statement, but I do appreciate your courtesy in permitting me to appear on behalf of the Department and to indicate our support of H. R. 3191.

We believe that some action is long since due in that regard, the rates now provided were set up in 1927, and costs have considerably increased since that time. We have cases that come up almost every month that point out very clearly the inadequacy of the present law.

I shall not take up the particular provisions of the bill, but will simply say that we endorse the bill and would like to suggest one addition, and that is to permit the repair or replacement of prosthetic devices that might be broken in connection with personal injuries. They are rather expensive items, partial dentures or glasses or hearing aids and other things that could well be covered, but only when personal injury has occurred.

The rates that are in effect now provide simply bare existence, or in some cases less than existence, and force the recipients on relief. We do not think that should be the situation with respect to a Government employee who is injured in line of duty.

We particularly would like to endorse the provisions which would recognize a partial loss of ability to obtain useful employment and compensation for loss of limbs and eyes and similar provisions.

I would like to call your attention, if I may, to three or four cases that we picked up from the files of the Department. One of them was an employee who was killed while demonstrating the use of dynamite in clearing irrigation ditches, which was in line with an official assignment. He left a widow and two dependent children, and when the case was finally settled, his widow received \$60 a month. You can imagine that it is impossible to provide a minimum standard of living for these children.

In another instance, a very valued employee was returning to Washington from an assignment, on a commercial air line, and an accident in nearby West Virginia caused his death. He was grade P-7, and was getting approximately \$700 a month. When his case was settled,

his widow received \$61.25 a month which, without private employment on her part, would provide a questionable existence, and it also came at a time when her ability to seek other employment was not what it had been in earlier years.

In another case, an employee who was engaged in protecting the life of the people through his service as a meat inspector received \$200 a month and contracted undulant fever as a result of his work. He has a wife and four children. When that case was settled, he got \$18.25 a month. He is not able to carry on his former work. He has to get other employment, where his ability to earn is very greatly impaired compared to his previous employment.

In an additional case, an employee was killed by a train while driving his automobile on official business. He was getting \$492 a month as an assistant State conservationist in the Soil Conservation Service. His widow is receiving \$61.25 a month, and for an adopted child an additional \$17.50.

I am citing these cases we pulled out of our files. We would certainly like to see the law revised so that the amount could go up and an employee who has received a larger income would not have to try to get along on these amounts, or his family get along on them, and to see that this \$116.66 a month minimum is increased to a more realistic sum.

I believe that will be adequate, unless you have some questions.

Mr. BAILEY. Do you have any questions, Mr. Irving?

Mr. IRVING. No questions.

Mr. BAILEY. Mr. Burke?

Mr. BURKE. I would like to ask one question.

I quite agree with you that there should be some section in the bill covering the repair or replacement of prosthetic devices, because, after all, those devices do take the place of members or functions of the body that are impaired or completely eliminated. I am just wondering this: On your recommendation, you feel that the element of personal injury should be there? For instance, we will say that a man is working on a job, and from some previous injury he is wearing an artificial arm. And because of some accident on that job, that artificial arm is broken, but he does not receive any noticable personal injury in that one accident, the accident in which the artificial arm is broken. Do you not feel that the repair or replacement of that artificial arm should be paid for in that case?

Mr. MINOR. Yes, I do. I think, though, that there would be administrative problems of simply authorizing glasses, for example, where there is nothing except breaking a lens or something of that kind, where the administrative problems might be sufficiently great to justify some limitation. But in the case that you have indicated, I certainly do feel that it should be provided for.

Mr. BURKE. Rather than write in the bill the element of personal injury attendant upon that particular accident, maybe it should be within the discretion of the Compensation Commission or Administration to determine to what extent the accident was the cause of the loss or breakage of the prosthetic device and to what extent the liability of the Government goes.

Mr. MINOR. I should be very happy to have it that way, sir.

Mr. BURKE. I believe that would be better than to require the element of personal injury in there.

Mr. MINOR. It would be possible for the loss to be considerable without personal injury.

Mr. BURKE. That is right.

Mr. MINOR. And in those cases, I think it would be well to cover it. But I think it might jeopardize the idea if it were to cover every 50 cents or \$1 that might be involved.

Mr. BURKE. Yes; I can readily understand that.

That is all.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. What agency of the Department of Agriculture has the highest accident rate?

Mr. MINOR. I do not have the figures before me. I would suspect that due to the nature of activity, the Forest Service would be one of the highest ones. Of course, agencies where people are engaged with machinery or fighting forest fires are susceptible. We do have an active safety program where we are trying to keep the injuries as low as possible, but we do have a good many of them.

Mr. SMITH. That is all.

Mr. BAILEY. Thank you, Mr. Minor.

Mr. MINOR. Thank you, sir.

Mr. BAILEY. Mr. James Kenner, Washington, D. C.

TESTIMONY OF JAMES KENNER, FORMER SHIPPING CLERK, RECONSTRUCTION FINANCE CORPORATION

Mr. KENNER. Mr. Chairman and gentlemen, my name is James Kenner, 1342 Kenyon Street NW., Washington, D. C. I was born in this city, on January 30, 1915. I am at present employed by the RFC as a messenger.

I appreciate this opportunity to tell the committee about my service, my acquired disability, and some of the effects that it has on my earning power. Before going into detail about my disability, I would like to acquaint the committee with a few facts on the background of my life that I believe to bear on my case.

I attended school from the time of my entrance into elementary school until my graduation from Armstrong High School here in Washington, D. C. I was and am deeply interested in athletics. I played tackle for 2 years on the Armstrong football team. I also was a member of the baseball and track teams.

In 1934 I set the local high school records in the discus and shot-put. I started participating in boxing in 1931. I was champion of the District from 1931 to 1934. And in 1936 I boxed again in the amateurs, and I won a trip to New York, but I did not take it because I had a chance to play a little football. In 1937, I boxed again in the amateur tournaments, and I won the championships, and won a chance to go to Boston to box in the national amateurs. In Boston, I went up to the finals, and I was defeated in the finals by a fellow by the name of Joe Levine.

Then after boxing in the amateurs, I went back. I started following my school. Then I fought as an amateur from 1934 to 1939 with a record of 25 wins and 3 losses. At about the same time I went to work for the RFC in 1939, I turned pro. My record as a professional between 1939 and 1942 was 12 wins and 3 losses. At the time I was

taken sick, my check was just beginning to lose that "lean and hungry look." I was just beginning to make a little money. At this time, I was working as a clerk in the shipping room in the RFC. Four of the men I was working with in the office were discovered to have tuberculosis. Of this group, one is dead, one is still in the sanatorium, and two have recovered.

Within a period of 8 months, all of us were hospitalized with tuberculosis. I was hospitalized in August 1943, and I stayed there from 1943 to 1945. I left there December 3, 1945, and I went to Upshur Street to the convalescent home, and I was rehabilitated. They were teaching me how to use different office machines to get me started so that I could go back to work and be advanced.

While I was in the hospital, the only way they could help me was to take out four of my ribs. I had a thoracotomy on my left side, and they removed my four ribs. I waited quite some time to find out where I contracted tuberculosis. I did not know exactly where, because all my associates were athletes, and my family did not have any tuberculosis. None of them died of tuberculosis. They died of heart trouble, pneumonia, or just some ordinary disease.

So then I applied to the Compensation Commission. In fact, I filed claim, rather, and I heard from them. Then they looked up my record to see whether I had contracted the disease there, and they found that I did. Then they paid me. In the first check, they gave me \$2,710, on July 16, 1946. And then on August 20, 1946, they gave me another check for \$382. But in the meantime, my earning power had been cut off, and then when I left the RFC to go into the hospital, my mother had a very bad heart, and due to worrying about my going to the hospital, because I was her main support, my mother died. Then I have an older brother who is in the hospital at the present time. He had inflammatory rheumatism, and was out at St. Elizabeths Hospital. And when he was out, I was taking care of him, too. So I tried to get a job at the Post Office to look out for my brother. Then he had a relapse, and he had to go back to the hospital. Then since I am back at the RFC, I had a chance to be promoted as a multilith operator, and due to my tuberculosis, I cannot work around the machines because they have so many chemical things there, and it makes me sick. So the doctors are taking me out there, and they have put me on the messenger force. So I am right at the top of my bracket, and I will not go any further.

But in the meantime, I have been working around the Police Boys Club as an instructor and an "ambassador of good will," and teaching kids the right way of life. So the Police Department has been giving me a check of \$50 a month. I help them 3 or 4 nights a week.

So I lost my earning power as a fighter, but I am able to make ends meet, thank goodness. But I want to talk to the committee in case someone else comes up, to let them know of conditions, you know, and it might help somebody.

So that is the reason I asked to come to make a statement.

Mr. BAILEY. You are, of course, in favor of this pending legislation to increase these payments?

Mr. KENNER. Yes; I am, Mr. Chairman.

Mr. BAILEY. Are there any questions, Mr. Irving?

Mr. IRVING. No questions.

Mr. BAILEY. Mr. Burke?

Mr. BURKE. The Commission determined that your sickness was compensable under the present law?

Mr. KENNER. Yes.

Mr. BURKE. That is all.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. No questions.

Mr. BAILEY. Thank you.

The last witnesses for today's sessions will be from the Department of State, Mr. Haywood P. Martin and Mr. Ryan.

Would you give your name?

TESTIMONY OF HAYWOOD P. MARTIN, DIRECTOR, OFFICE OF THE FOREIGN SERVICE, ACCOMPANIED BY ROBERT J. RYAN, ASSISTANT CHIEF, DIVISION OF DEPARTMENTAL PERSONNEL, DEPARTMENT OF STATE

Mr. MARTIN. My name is Haywood P. Martin, Director, Office of the Foreign Service, Department of State.

Mr. SMITH. Will you state just what is your particular job?

Mr. MARTIN. My particular job is that of Director of the Office of the Foreign Service, which is, in effect, the operating base for the Foreign Service of the United States. Through the Office of the Foreign Service, we administer the Service under the Assistant Secretary, Director General of the Foreign Service, and the Secretary.

Mr. SMITH. What I want to gather is, with all of the people that are scattered throughout the world, if they are working for the Department of State, if they receive an injury, you are the ones that handle that; isn't that correct?

Mr. MARTIN. Yes, sir; that is correct. Those in the Foreign Service. There are a number of people who go out from the Department of State proper. You know, there are two separate personnel services, the Department of State being covered by the civil service and the Foreign Service of the United States being covered by Public Law 724, commonly known as the Foreign Service Act of 1946, that being the revision of the Rogers Act of 1924, I believe it was.

Mr. BAILEY. You may proceed.

Mr. RYAN. Mr. Chairman and members of the committee, I appreciate very much this opportunity to appear here and lend the support of the Department of State to the bill under consideration, namely, H. R. 3191. Having heard some very excellent statements by previous witnesses, particularly those representing the Departments of Commerce and Agriculture and the National Defense Establishment, I would like to make my comments very brief, and only call particular attention to a letter which has been filed with the committee, together with a statement listing a number of typical cases which we have confronting us.

(The documents referred to are as follows:)

APRIL 29, 1949.

HON. JOHN LESINSKI,

*Chairman, Committee on Education and Labor,
House of Representatives.*

MY DEAR MR. LESINSKI: The Department of State is particularly interested in the favorable consideration by the Congress of H. R. 3191 which is currently being considered by your committee. It is believed that the passage of this bill is necessary to correct inequities and inadequacies in the existing Employees'

Compensation Act. At present the benefits available under the present law are not sufficient in view of the present cost of living in this country and have not been geared to the general increases in pay which have been given to Government employees over the past 4 year.

That part of the bill which provides for inclusion into the compensation system of "officers" is of particular interest to the Department of State because at present Foreign Service officers, Ambassadors and Ministers, as well as the Secretary, Under Secretary, and Assistant Secretaries of State, are not protected by the Employees' Compensation Act. Approximately 1,300 persons are included in these categories and the exclusion of these groups from the coverage of the Employees' Compensation Act is somewhat discriminatory since they encounter the same risks by reason of their employment, both in Washington and other countries, as do the other employees of the Department of State and the Foreign Service who are covered under the act, i. e., staff officers, employees, civil-service employees, and aliens. In the performance of their official duties, officers of the Foreign Service in particular are subjected to many risks and dangers. A plaque in the entrance of the Old State Department Building lists the names of 67 Foreign Service officers who have died in line of duty, their deaths resulting from such causes as yellow fever, malaria, epidemics, violence, and plane crashes. Approximately 14 more names will be added in the near future.

The increased benefits provided by this bill are also important to the employees of the Department of State. Numerous situations have occurred, both in the Departmental and Foreign Service, in which employees have incurred an illness or injury during the performance of their duties and have suffered hardship because of the inadequate provisions of the present law.

If it is convenient, the Department would appreciate an opportunity to have a representative appear before your committee to submit its views on H. R. 3191.

Sincerely yours,

CHAS. M. HULTEN,
Deputy Assistant Secretary for Administration
 (For the Secretary of State).

SUMMARY OF REPRESENTATIVE CASES HANDLED UNDER THE EXISTING COMPENSATION PROVISIONS

SECTION 6

Case A.—Elderly female employee, CAF-4 (\$2949.72), age 66, of the Department suffered a fractured hip on April 12, 1948, while in the performance of duty. Had sick and annual leave to carry her through January 12, 1949, on full pay, which is a monthly rate of \$194.88. Employee has one elderly dependent (sister). Since January 12, 1949, employee has been receiving benefits under the Compensation Act in the amount of \$116.66, which is the maximum payable under the present law. Full recovery indeterminable at this time.

Under proposed bill, H. R. 3191, this employee's benefits would be increased as follows: Since there is one dependent, employee would receive 66⅔ percent plus 8⅛ percent of her salary or \$146.16, an increase of approximately \$30 monthly over the present benefits.

Case B.—Male employee, age 38, employee of the Department, P-8 \$9,108 per annum. In official travel status the employee suffered an illness while out of the country believed to have resulted from many months of heavy pressure and overtime, which has kept him incapacitated for duty since November 16, 1948. Because of the small benefit available to him under the present law a request was made for advancement of leave which carried him in full pay status until approximately April 4, 1949. Since that date he receives \$116.66 under the present law.

Under the proposed law with wife and four minor children he would receive \$6,831 per annum or 75 percent of his present rate of pay \$9,108. This employee's private physician has made certification for 1 year's leave without pay beginning April 7, 1949.

SECTION 11

Case C.—Male employee, age 46, P-8, \$8,750 per annum in an official travel status out of the country died of an illness contracted because of surroundings.

The embalming bill amounted to \$500 and the other expenses, incident to

preparation of body for burial, were equally out of proportion. Under the present law there was allowed toward these expenses a total sum of \$200.

Under the proposed law the amount allowed for such expenses would be \$400.

Case D.—Female employee, age 24, salary \$2,644.80, killed in plane crash June 13, 1947, while in official travel status, leaving a 10-month-old daughter. Under the present law the guardians for this child are receiving \$55 per month, or 25 percent of employee's salary.

Under the proposed law the amount allowed would be increased to \$77 per month or 35 percent of employee's salary.

CASES INVOLVING EMPLOYEES OF THE FOREIGN SERVICE

SECTION 6

Case F.—Female employee serving with the Foreign Service at a tropical post where sanitary conditions were poor, found it necessary to have minor surgery performed. Due to the unsanitary conditions existing in the hospital, she developed a serious blood infection. The doctors did not recognize the seriousness of the infection until permanent damage had been done to her heart. As a result, this employee is permanently disabled. In all probability if the employee had been operated on in the United States the surgery would have been routine and any blood infection would have been detected immediately. Case was finally adjudicated in employee's favor and she was retired under the act on total disability; however, the maximum benefit is \$116.63 per month.

Under proposed amendment this employee would receive monthly compensation equal to 66⅔ percent of her monthly pay for total disability.

SECTION 5

Case G.—An officer with the Foreign Service was assigned to a remote Chinese post and during assignment developed a severe intestinal disorder. After some time and as a result of inadequate medical facilities at the post, the employee was returned to naval hospital, Bethesda, Md., where difficult and delicate surgery was performed. The employee finally recovered but was not able to continue in the Foreign Service. Although the Department paid travel and medical expenses, there was no provision for payment of time lost and for 1 year the employee remained in a leave-without-pay status.

Under H. R. 3191 this employee would receive monthly compensation to equal 66⅔ percent of his pay rate for such time as he remained in a leave-without-pay status.

Case H.—Three guards in the American Foreign Service were shot by snipers while on assignment in Palestine. No permanent disabilities resulted; however, leave without pay was necessary for a period. These particular employees of the Foreign Service are covered under the present law; however, the benefits in the absence of sick or annual leave are inadequate.

Mr. MARTIN. Our problems are much the same, gentlemen, generally, as those facing other departments of the Government. We are wholeheartedly in favor of the more liberal treatment which this committee is considering for Government employees generally. We would urge that favorable action be taken on that.

In addition, there is one particular feature of the bill on which we would like to add a special comment, namely that provision which covers civilian officers as distinct from employees. We have about 1,300 so-called officers in the State Department and the Foreign Service who are not now covered by the employees' compensation laws. We feel that this is an inequity and one that should be corrected.

Efforts have been made in previous years to have that category of personnel covered, going back as far, I believe, as to Secretary Hull's days in the State Department.

Specifically, the Secretary, the Under Secretary, the Assistant Secretaries and officers of the Foreign Service as distinct from employees of the Foreign Service, those being technical terms as used here, are not now covered. A ruling of the Comptroller General years ago elimi-

nated that category of personnel on the ground that they were not employees as defined by the law; they are officers confirmed by the Senate and therefore are not under the provisions of this bill.

We feel that they are equally entitled to the protection afforded other employees, that they undergo the same hazards in their work, and in the case of the Foreign Service officers who are serving abroad in the four corners of the world, doing much travel by plane in these days, and many times on foreign-flag ships—

Mr. BAILEY. Will you allow the Chair to interrupt?

Mr. MARTIN. Yes, sir.

Mr. BAILEY. You speak of those as officers. Are they military officers?

Mr. MARTIN. No, sir. These are civilian officers of the Foreign Service of the United States, all of whom are appointed by the President and confirmed by the Senate. Senate confirmation is required on all of them. And it is because of that technicality that they are omitted from the present benefits provided other employees.

Mr. BAILEY. Very well. Proceed with your regular presentation.

Mr. MARTIN. This group of officers serves under conditions probably more hazardous than if they were serving in Washington, as we are. A plaque in the entrance of the old State Department lists the names of 67 Foreign Service officers who have died in line of duty. Approximately 14 additional names will be added very soon. These deaths occur from accidents, planes, snipers' bullets, from fever, tropical diseases, and so on.

These officers are not now covered under the employees' compensation law, and we think that they should be covered and should receive the same benefits, at least, as do other employees of the Federal Government.

So, in conclusion, we would endorse fully the provisions of your bill and say that we hope very much that favorable action will be forthcoming.

Mr. RYAN. I have no statement, Mr. Chairman. Mr. Martin is the Department's principal witness.

Mr. BAILEY. Do you have any questions, Mr. Irving?

Mr. IRVING. No questions.

Mr. BAILEY. Mr. Burke?

Mr. BURKE. I have just one question.

I notice in looking over some of the cases that you cite of persons who died in a foreign country in the Foreign Service of a disease attributable to their line of work, in one case the embalming bill amounted to \$500. And I suppose there were other expenses incident, such as shipping, or things of that nature.

Mr. MARTIN. Yes, sir.

Mr. BURKE. Do you have any appropriation for any method now by which you take care of those conditions up to the time, we will say, the body is brought back to the States and the family would draw the \$400 provided for in this bill, or the \$200 provided for in the present act? Would that be intended to cover all of that, in addition to the funeral at home, of course?

Mr. MARTIN. Yes, sir. We have some authority in appropriations, but not just as I understood your question. What we have in the case of Foreign Service officers is authority to return their remains to the States, if they die abroad. You cannot, of course, transport them

without the protection in a casket, and so forth. That we can pay for today. The family, however, would get nothing in the way of compensation. But we do pay for bringing the remains back, the casket, the embalming, and so on.

Mr. BURKE. This is the type of thing I would not want to see eliminated by this bill, the liberalization bill.

Mr. MARTIN. Yes, sir.

Mr. BURKE. Because I believe that the Department should be responsible for bringing the body back to the States and then the family be compensated for the expense of the funeral in the States.

Mr. MARTIN. By all means. And as the language now stands, it would not preclude our bringing the remains back to the States.

Mr. BURKE. You would still operate under the same conditions?

Mr. MARTIN. Yes, sir; we would.

Mr. BURKE. That is all.

Mr. BAILEY. Mr. Smith?

Mr. SMITH. If a maid in our Service in Paris gets a sacroiliac strain, is it compensable?

Mr. MARTIN. A maid?

Mr. SMITH. She is employed in our Embassy in Paris; she gets housemaid's knee or a sacroiliac strain; is that compensable?

Mr. MARTIN. We do not have maids employed as such.

Mr. SMITH. Take any employee of an Embassy in Paris, a Frenchman, an employee.

Mr. MARTIN. Yes, sir; they are covered. They are covered in just the same way that I am covered working here in Washington. Aliens are.

Mr. SMITH. Now, you have an injury; you have a compensable case over in Paris at the Embassy. How is she paid? In dollars?

Mr. MARTIN. She is paid, I believe, in local currency, although I am not sure of that. The payments are made by the Employees' Compensation Commission. I am not sure. We process the case and refer it to the Employees' Compensation Commission.

Mr. SMITH. What about that, Mr. McCauley?

Mr. McCAULEY. We would certify the payment to the Treasury Department in dollars.

Mr. SMITH. In dollars?

Mr. McCAULEY. Yes, sir.

Mr. SMITH. And would she get a check in dollars or francs?

Mr. McCAULEY. I am not certain how the Treasury Department actually issues its checks, whether they purchase French money or whether they issue the check in American dollars.

Mr. SMITH. If it is in dollars, it would be quite a bit more in compensation that it would be in French francs, would it not?

Mr. McCAULEY. We use the equivalent dollar rates for the salary paid.

Mr. SMITH. On the official rate of exchange?

Mr. McCAULEY. We would use the rate of exchange reported at the time the case was referred to us.

Mr. SMITH. All the departments of the Government do not do that, do they? Do they not issue actual dollar checks?

Mr. McCAULEY. I am not certain how they handle the accounts in some of the foreign countries. We do not concern ourselves with the

exchange rate except in converting the local payments in dollars. If they are paid in local currency, we would be concerned in converting the pay rate to American dollars. Then we would process our payments on the basis of the dollar value in certifying the pay rolls to the Treasury in American dollars. How the Treasury actually issues them, I am not certain. But I shall be glad to inquire.

Mr. SMITH. I think they issue them in dollars, and that is a racket over behind the iron curtain and other places, that they get these compensation checks in dollars. For instance, I know of a case where a soldier was killed, whose next of kin is in Poland. And those checks are much sought after, and they use those checks on the black market. They do not cash them at the regular rate; they use them for black marketing. I was wondering about this compensation here.

Mr. McCAULEY. I will inquire of the Treasury just how they process the payments.

Mr. SMITH. Now, then, if the State Department takes over the running of Germany, you are going to have a lot of civilian employees, are you not?

Mr. MARTIN. Yes, sir. We have in excess of 5,000 overseas today.

Mr. SMITH. And they are all under compensation?

Mr. MARTIN. All except approximately 1,300 in this officer category which I described.

Mr. SMITH. I understand that.

Mr. MARTIN. Yes, sir. I might add in addition to the 5,000, there are about 4,000 of the aliens, nationals of foreign countries, who are covered under this same act.

Mr. SMITH. That is what I want to get at. The nationals over there are covered by the act?

Mr. MARTIN. That is correct, sir, if they are employed officially by the missions abroad.

Mr. BURKE. Will the gentleman yield for a question at that point?

Mr. SMITH. I yield.

Mr. BURKE. How are they paid in the first instance? That is, how are they paid for their services? In local currency or in dollars?

Mr. SMITH. They are paid in local currency.

Mr. MARTIN. Yes, sir, they are.

Mr. SMITH. I know when I was over there, they were paid in German marks that we used, and not in American dollars. They were paid in the Army of Occupation money.

Mr. BURKE. Would it not naturally follow that their compensation being a percentage of their pay for services, it would be paid in the same manner, in the same type of currency?

Mr. SMITH. That is the point I was trying to get at, because on that black market, that \$1 check is worth many, many times what it is on the official rate, and they are much sought after.

That is all.

Mr. BAILEY. Thank you, gentlemen, for your presentation.

This concludes the hearings before this committee. The record will be presented to the Committee of the Whole in due time.

Thank you. The committee is adjourned.

(Whereupon, at 12:30 p. m., May 2, 1949, the hearing was closed.)

AMENDMENTS TO FEDERAL EMPLOYEES' COMPENSATION ACT

JUNE 6, 1949.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LESINSKI, from the Committee on Education and Labor,
submitted the following

REPORT

[To accompany H. R. 3191]

The Committee on Education and Labor, to whom was referred the bill (H. R. 3191) to amend the Federal Employees' Compensation Act of September 7, 1916, as amended, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

- (a) Page 4, line 2, strike out "when required,".
- (b) Page 11, line 13, strike out "partial" and "(b)" and, in lieu of the latter, insert "(a) of this section,".
- (c) Page 12, line 13, strike out "(a)".
- (d) Page 13, line 22, strike out "for permanent total disability from injury."
- (e) Page 14, line 1, substitute "totally" for "total".
- (f) Page 14, line 4, strike out the word "total"; insert after the word "disability" the words "resulting from the injury".
- (g) Page 17, line 9, following the word "accepts", insert "after such marriage".
- (h) Page 17, line 10, following the word "compensation", strike out the words "after such marriage," and insert "to which he is not entitled,".
- (i) Page 19, line 9, strike out "or".
- (j) Page 20, line 20, strike out "is", and substitute therefor "as".
- (k) Page 21, line 14, strike out the words "unless otherwise specifically provided by law,".
- (l) Page 21, line 16, strike out the comma after the word "States".
- (m) Page 21, line 17, strike out the words "wholly owned by it,".

(n) Page 21, line 19, strike out the words "at law" and insert in lieu thereof the words "in a civil action".

(o) Page 21, line 20, after the word "proceedings" insert a comma and the following words: "whether administrative or judicial,".

(p) Page 26, line 8, after the word "earnings", insert "of such employee".

(q) Page 27, line 6, strike out "(a)".

(r) Page 27, line 22, after the word "Administrator" insert the following sentence:

The Administrator is authorized to delegate to any officer or employee of the Federal Security Agency any of the powers conferred upon him by this Act.

(s) Page 28, line 1, strike out the word "Section", and insert in lieu thereof "The first and third sentences of section".

(t) Page 28, line 2, strike out the word "is" and insert instead the word "are".

(u) Page 29, line 21, insert the following new section:

FEES—PUNISHMENT FOR CONTEMPT

SEC. 208. Section 23 of such Act, as amended, is further amended to read as follows:

"SEC. 23. (a) Fees for examinations made on the part of the United States under sections 21 and 22 by physicians who are not officers or employees of the United States and not under contract to the United States to render medical services to its employees shall be fixed by the Administrator. Such fees, and any sum payable to the employee under section 21, when authorized or approved by the Administrator, shall be paid from the employees' compensation fund.

"(b) A claimant may be represented before the Administrator in any proceeding under this Act by any person duly authorized by such claimant. No claim for legal services or for any other services rendered in respect of a case, claim, or award for compensation under this Act, to or on account of any person, shall be valid unless approved by the Administrator. Any person who receives any fee or other consideration, or any gratuity on account of services so rendered, unless such fee, consideration, or gratuity, is so approved, or who solicits employment for himself or another in respect of any case, claim, or award for compensation under (or to be brought under) this Act shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

"(c) If any person in proceedings before the Administrator or his duly authorized representative disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, the Administrator or his duly authorized representative shall certify the facts to the district court having jurisdiction in the place in which he is sitting (or to the District Court of the United States for the District of Columbia if he is sitting in such district) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court."

(v) Page 33, line 4, strike out the words "or disfigurement," and insert after the word "shall" the phrase "(A) in cases within the purview of section 5 (b) or in cases of disfigurement."

(w) Page 33, line 16, strike out the words "in which the injury" and insert in lieu thereof the words "where the injury occurred on or after January 1, 1940, and (B) in other cases, apply retroactively to injuries which".

(x) Page 34, line 1, strike out the words "and provided" and insert in lieu thereof "Provided further".

(y) Page 34, line 4, strike out the word "partial".

(z) Page 34, line 8, at the end of subsection (d) (1) insert the following new sentence:

And provided further, That any award made under the provisions of this subsection shall be payable prospectively in the same manner as though the injury occurred after the enactment of this Act.

(aa) Page 36, line 12, insert a new section 305 as follows:

ACCIDENT PREVENTION AND ANNUAL REPORTS

SEC. 305. Section 33 of the Federal Employees' Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections "(a)" and "(b)" and by adding a new subsection designated as "(c)", as follows:

"(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this Act."

(bb) Page 37, line 8, after the word "OF", insert "MINIMUM AND".

GENERAL STATEMENT

The Federal Employees' Compensation Act has been in existence nearly 33 years. During that time, the scale of compensation benefits for disability and death has been modified on only one occasion. That was in 1927. Twenty-two years have since elapsed without revision of the act so as to place the scale of benefits in line with the great upswing of wages and living costs since that time. Under the present provisions of the Employees' Compensation Act, Federal employees are limited in case of total disability, and their families in case of death, to a maximum compensation of \$1,400 a year. In many instances, this sum is a small fraction of the pay of a totally disabled worker. Under prevailing economic conditions, the workmen's compensation benefits at present are at such low levels as to cause this necessary act to lose its effectiveness. There is no dispute that great hardships are being imposed upon disabled Federal employees or their dependent families and that many of them are left with the only alternative of relying upon charity or the help of their friends to afford them the barest kind of existence. The great Government of the United States, as a matter of common justice to its employees, should remedy this situation and should restore to the employees that measure of security which is necessary to maintain them during disablement, and their dependent families after death due to employment injuries.

The plight of Federal employees which is due to inadequate benefits was mentioned by the President in his budget message of January 3, 1949. The President said:

* * * The benefit rates have not been changed since 1927. They are now quite inadequate. I recommend that these benefit rates be liberalized.

The major purpose of the bill is to make benefits more realistic in terms of present wage rates so as to enable a disabled Federal employee and his family to maintain themselves where the employee's wage-

earning capacity has been destroyed or impaired through accident or disease attributable to his employment. The benefit rate would be slightly increased where a disabled employee has one or more dependents. The death benefit provisions of the act would be liberalized along parallel lines, with minor adjustments designed to give a deceased employee's wife and children a more substantial degree of protection.

A major feature is the inclusion of provisions designed to indemnify employees for the loss or loss of use of members or functions of the body, or for permanent cosmetic disfigurement, a kind of provision which will be found in practically all of the workmen's compensation laws in this country. As explained in the sectional analysis, however, the provisions have been improved so as to render them more just as well as administratively convenient.

In addition to necessary changes in the compensation rates, and the provision for a schedule of payments as indemnity for such member losses, the bill contains a number of technical amendments and refinements necessary to facilitate administration and to make more just and accurate the computations involved in the adjudication of claims.

The coverage of the Employees' Compensation Act under the present law extends only to civilian employees of the Government. The bill would include within the coverage provisions, in addition to such employees, all civilian officers of the Government in its three branches, as well as those persons who render personal services to the United States without, or for nominal, compensation. The inclusion of civilian officers of the Government will eliminate a major discrimination. The line of demarcation between civilian "officers" and "employees" is frequently so obscure as to make just decisions impossible. Officers of the Government, as well as employees, often perform missions to the far corners of the earth and the conditions under which they render services are frequently relatively hazardous. It is only fair and just that they should receive the same extent of protection as their subordinates. Justice also requires that those who, under statutory authority, perform personal services for the United States in a civilian capacity but without compensation or for a merely nominal compensation, such as a dollar a year, be given protection against the risk of injury or death suffered in such service. There are a number of tragic cases in which compensation had to be denied to them, although in some of them Congress afforded relief by private act. Private legislation obviously is not the answer to this problem.

The bill also would adjust to a more realistic level the compensation base in the case of persons already on the benefit rolls whose compensation would not otherwise be adequately affected by amendments because of their very low pay rates when injured.

SUMMARY OF PRINCIPAL PROVISIONS

(1) An increase in the maximum family benefit from 66⅔ to 75 percent of pay in both disability and death cases. Under the bill a disabled person without dependents would receive the 66⅔ percent rate and a person with one dependent (wife, child, or parent) would receive 8⅓ percent more.

(2) (a) Elimination of the flat maximum benefit amount and an increase from \$58.33 to \$112.50 in the monthly minimum benefit for disability and, (b) corresponding elimination of the maximum monthly

pay which can be considered in death cases, and increase from \$87.50 to \$150 in the minimum monthly pay to be considered in such cases.

(3) Increase in death benefits from 35 to 45 percent to a widow or dependent widower without child, and from 35 to 40 percent to a widow or widower where there is a child; where there is a widow or widower but there are one or more children, a further increase from 10 to 15 percent for each child, and, where there is no widow or widower, an increase from 25 to 35 percent for the first child and from 10 to 15 percent for each additional child. No increases for other dependent survivors are provided.

(4) Inclusion of a "schedule" for loss, or loss of use, of a member or function of the body, and for disfigurement.

(5) Increase of maximum allowance for an attendant for a helpless disabled employee, from \$50 to \$75 per month and discretionary provision for up to \$50 per month to employee directed to undergo vocational rehabilitation, with payment of rehabilitation cost (with some exceptions) out of the Compensation Fund.

(6) Increase from \$200 to \$400 in burial benefits where death results from the injury, and authorization to provide casket and transport body where the injured employee dies while away from home and undergoing treatment or examination.

(7) Extension of coverage so as to include, in addition to persons now covered, (a) civilian officers, as distinguished from employees, of the United States (including Members of Congress and other elective officers) in all three branches of the Government, and (b) persons rendering personal services to the United States without compensation or for nominal compensation.

(8) The wage base for beneficiaries on the rolls would be increased to take account of the rise in wage rates.

(9) The provisions for computation of pay on which to base compensation under the act have been amended so as to exclude, in addition to overtime pay, certain extra allowances and so as to bring the computation in line with the Longshoremen's Act and other workmen's compensation laws. Special provisions in this respect had to be included for persons serving without pay or for nominal compensation. Appropriate corresponding amendments are included for computation of wage-earning capacity for partial disability cases.

(10) The provisions for adjustment or recovery of overpayments were amended to make them less harsh.

(11) The remedy under the Federal Employees' Compensation Act is made exclusive.

(12) Payment for the 3-day waiting period is provided where the disability lasts beyond 21 days.

(13) In addition, a provision eliminating the \$4,000 ceiling on compensation for emergency relief workers insofar as compensation for permanent total disability or death is concerned, and increasing prospectively from \$50 to \$100 the maximum monthly benefit amount and providing for a \$50 monthly minimum benefit for such workers, is included, and authority to continue on the benefit rolls remaining cases of injured or killed members of the former Women's Army Auxiliary Corps is clarified.

(14) Provision is made for fixing fees of claimants' representatives.

(15) Authorization for a safety council advisory to the Federal Security Administrator and for the development and support of a safety program in the various Government agencies.

SECTION-BY-SECTION ANALYSIS

TITLE I—SUBSTANTIVE AMENDMENTS

Section 101: This section would amend section 2 of the act, which contains a so-called waiting-period provision common to most workmen's compensation laws. The act at present prohibits payment of money compensation for the first 3 days of disability, and is designed to eliminate the administrative burden of many small claims. Most State workmen's compensation acts pay to the employee the compensation withheld during the waiting period in those cases in which disability is prolonged beyond a certain period. The bill would permit payment for the first 3 days of disability if the disability lasts longer than 21 days or is followed by permanent disability.

The act at present permits an employee to use annual or sick leave, subject to the approval of the head of the department. It provides that compensation shall begin on the fourth day of disability after leave has ceased. In view of the proposed amendment to section 2, above outlined, it is also necessary to amend section 8 of the act so as to have it conform to the change made in section 2. In making this change, reference to approval by the head of the department, as regards leave, was omitted as unnecessary.

Section 102: This section, relating to benefits for total disability, would amend section 3 of the act by dividing it into two subsections. Subsection (a) contains the present language in the section, and, in addition, would define the compensation therein provided as "basic compensation for total disability," so as to distinguish it from the additional compensation which section 6 would provide in the case of a disabled worker having one or more dependents.

Subsection (b), as proposed, would regard the loss or loss of use of two major members of the body, or blindness, *prima facie* as constituting permanent total disability. This provision would make it unnecessary, ordinarily, to determine loss of wage-earning capacity in that class of cases which is recognized in other workmen's compensation laws as involving presumptive permanent total disability, and would make it possible to eliminate consideration of meager or inconsequential earnings which do not, in themselves, reflect any substantial earning capacity in the individual. Only upon substantial rehabilitation of the employee or proof of substantial wage-earning capacity after injury, would a *prima facie* case of permanent total disability be overcome. For a somewhat similar provision, see section 8 (a) of the Longshoremen's and Harbor Workers' Compensation Act (33 U. S. C. 908 (a)).

Section 103: The first subsection would amend section 4 of the act by dividing it into two subsections. Subsection (a) (1) would contain substantially the same language as in the present section, except to define the compensation as the "basic compensation for partial disability," so that this language will conform with the proposed amendment to section 6.

Subsection (a) (2) would contain, in clarified form, that part of present section 4 relating to reporting of earnings and penalty for failure to report earnings, but would permit the Administrator to accept unsworn reports of earnings. In addition, there is included a necessary provision for forfeiture of compensation for any period for

which an injured employee knowingly understates his earnings, a situation not provided for by the present act.

Subparagraph (b) of section 4, as proposed, contains the language now in section 5 of the act. The rearrangement was made to permit the inclusion of new material in section 5.

Subsection (b) of section 103 would amend section 39 of the act to add the words "or report," so as to include within the penalty provisions in such section not only a false "affidavit" but also a false "report" of earnings, to make for consistency with section 4 (a) as amended by the bill.

Section 104: This would amend section 5 of the act by including therein entirely new material. The basic theory of the Employees' Compensation Act is that the employee shall receive as compensation 66⅔ percent of whatever loss he sustains in his wage-earning capacity. While sound in principle, in application it presents two main difficulties. First, it is often extremely difficult to determine fairly and objectively the precise extent to which a particular physical impairment diminishes a particular individual's wage-earning capacity. This is because reduction in earning capacity is not usually or necessarily equivalent to any particular extent of physical impairment. Secondly, an employee having a loss of member or function of the body may be able to return to employment without apparent wage loss. Notwithstanding what may be to him a severe loss, he may not be paid compensation for his physical impairment. Understandably, the employee looks for some form of indemnity for his loss. A few workmen's compensation systems have attempted to meet this problem by an all-inclusive schedule which attempts to fix the amount and period of compensation at a static level for every conceivable physical disability, irrespective of the extent to which the particular disability affects the employee's capacity to earn. This method is not, however, generally followed because it creates too many injustices, however convenient it may be from an administrative standpoint. On the other hand, most American workmen's compensation laws contain a schedule of compensation for permanent partial disability, limited to cases where there is total or partial loss, or loss of use, of certain readily identifiable members or functions, such as one's limb or part thereof, an eye, hearing, etc.

The bill adopts the latter, and most frequently used, approach which consists of a schedule for such particularized permanent disability and for facial disfigurement, but with one important modification. If the injury results in permanent major impairment, such as total loss or loss of use of an arm, hand, leg, foot, or eye, or total loss of hearing in both ears, a scheduled indemnity would, in most cases, be seriously inadequate. To overcome this inadequacy, an employee suffering such serious injury to a member or function would, upon expiration of the compensation period specified in the special schedule, be protected against continued disability and impairment of his wage-earning capacity at the regular compensation rate applicable to such continued disability like other disabled employees. In these major injury cases, the schedule of compensation would thus be minimal rather than exhaustive; after the expiration of the scheduled period, if the employee's capacity to earn will continue impaired, he should receive compensation in the same manner as under the present act, calculated on the basis of the loss of earning capacity he

sustains. In view of this, the bill makes the schedule applicable to all such kinds of injuries causing permanent disability, including those cases in which disability is total.

If the employee dies before the expiration of the scheduled period, and the cause of death was the injury, further compensation under the schedule would cease since death benefits would then be provided for his dependents. But should the employee die from causes other than the injury, the unpaid scheduled award, which would have been paid to the employee had he not died, would, under the provisions of section 5, be payable to certain specified beneficiaries arranged in order of priority and selected from the classes of beneficiaries who ordinarily would be entitled to death benefits. Should there be no such beneficiaries or if they should die before receiving full payment, any remainder could be used to defray the employee's burial expenses, and any further balance not so applied would lapse. This provision is also similar to provisions for the same purpose in the New York law and Longshoremen's Act.

Section 105: Section 6 of the act would be completely revised by adding new provisions and incorporating amendments in existing provisions. This section at present contains flat minimum and maximum limitations upon the monthly compensation for a disability, provision for an attendant's allowance for helplessly disabled persons, and provisions by which the amount of monthly pay used as a basis for computation of compensation may be increased for minors or learners upon attaining adulthood or maturing from learner's status and decreased for adults on attainment of old age at which wage earning capacity would probably have decreased irrespective of the injury.

The bill would divide section 6 into four subsections (a) to (d), inclusive.

Subsection (a) would provide for a slightly increased percentage of the monthly pay used in computing disability compensation, where the employee has one or more dependents as therein defined. The act at present provides as compensation 66½ percent of the monthly pay for total disability, and the same percentage of the difference between the monthly pay and wage-earning capacity after injury, for partial disability. This percentage of the wage is specified as the compensation rate in most State workmen's compensation laws and in the Longshoremen's and Harbor Workers' Compensation Act. Where the disabled employee has a dependent wife, child, or parent, section 6 (a), as amended by the present bill, would augment the benefit rate by 8½ percent of monthly pay for totally disabled employees, and by 8½ percent of the difference between such pay at the time of injury and the reduced wage-earning capacity for partially disabled employees. The principle of augmenting basic compensation where a disabled worker has dependents will be found in other workmen's compensation laws. Section 6 (a) precisely limits the circumstances under which a wife, child, or parent is considered a "dependent" of the employee.

Subsection (b) (1) would increase the allowance for an attendant from the present maximum of \$50 to not to exceed \$75 a month, as it is hardly possible to secure services for \$50 per month. In addition, the committee has recommended deletion of the present condition that there be an award for permanent total disability. With this amendment, the allowance could be paid whenever, because of

the injury, the employee needs an attendant by reason of total blindness or other disability rendering him helpless without an attendant, even though with such aid he may have some earning capacity.

Subsection (b) (2) would add a new feature authorizing payment of not to exceed \$50 per month, in the Administrator's discretion, to a disabled individual undergoing vocational rehabilitation pursuant to the Administrator's direction, a feature intended to restore the employee more quickly to substantial wage-earning capacity, thereby reducing compensation costs.

Subsection (c) would provide a new floor or minimum compensation of \$112.50 per month (the present law providing \$58.33) for total disability, which would be applied except in cases where the monthly pay is less than \$112.50, in which latter event—as under the present act—the compensation for total disability would be equal to the full monthly wage. The present flat ceiling of \$116.66 per month would, for reasons explained below, be eliminated as inequitable.

Subsection (d) (1) would in effect retain the present provisions, above-mentioned, for redetermination of compensation for learners and minors and of aged persons, with slight technical revision to facilitate administration, including the fixing of the age of 70 as the minimum age at which compensation may be reduced to take account of probable decrease in earning capacity by reason of old age.

Subsection (d) (2) would impose a sanction upon any employee, who, without good cause, fails to apply for or undergo vocational rehabilitation, when so directed by the Administrator, by causing a reduction in his monetary compensation to accord with what would probably be his wage-earning capacity if he had undergone rehabilitation.

The net effect of the changes and additions outlined above would be to increase slightly (by $8\frac{1}{3}$ percent of the loss of earnings) the basic compensation of $66\frac{2}{3}$ percent of the pay loss in view of the greater need of an employee with a dependent or dependents than a single employee. This would serve to prevent families from falling behind financially during the crisis occasioned by industrial injury, a principle recognized in some of the other workmen's compensation legislation in this country and abroad. The increase of \$25 per month in the amount payable for an attendant for helpless individuals is in recognition of the general advance in cost for personal services. The additional allowance, not to exceed \$50 per month, which would be payable to disabled individuals undergoing vocational rehabilitation, is necessary to secure real cooperation on the part of disabled workers who otherwise might reject rehabilitation for the reason of additional burdens which are often placed upon them incident to attending training away from home and their families. A two-way benefit would be derived by this provision, (a) the individual would be made self-sustaining, and (b) compensation costs would thereby be reduced.

The present section 6 contains a ceiling of \$116.66 upon the monthly compensation for disability. The dollar amount of this maximum monthly benefit as fixed in 1927 is not only completely out of date, but any flat monthly maximum, the effect of which inevitably in some cases prevents the employee from receiving a fair proportion of his wage loss in total and partial disability cases, is, by its very nature, unrealistic and inequitable. It is obviously unrealistic and inequitable because it substitutes an arbitrary dollar amount, bearing no

necessary relation to the employee's loss, for the true measure of the economic impact of the injury upon the employee, which is the loss of wage-earning capacity caused by the disability. If this impact is to be met, compensation for injury should in all cases be a fair proportion of the actual loss. A totally disabled employee, at the outset, must under the act suffer a one-third reduction in his weekly or monthly income. To the extent that a flat dollar ceiling upon compensation further adds to his loss of income, his personal financial problem is thereby directly and proportionately increased. In some cases the ceiling effects a complete disruption of the employee's financial ability to maintain himself and family. A simple illustration will make this plain.

Assuming a case of total disability in which the employee had been a scientist earning \$8,400 a year, and was permanently blinded and crippled by a laboratory explosion, the present ceiling in the law would operate so that he would receive, not two-thirds of his pay but about 17 percent (or one-sixth) of his pay. The impact of a flat dollar ceiling on the employee and his family in this type of case would be relatively far greater than on those in lower pay brackets. It is likely that he would have to default on his fixed obligations, such as mortgages, insurance, etc., and eat up such savings as he may have accumulated. This illustration demonstrates the result a flat ceiling will bring about. In thus disregarding differences in economic loss as between individuals, moreover, such flat dollar ceilings are also plainly discriminatory. While they may be warranted for general social insurance which is intended only to provide a floor of security, they are out of place in an effective workmen's compensation plan. Workmen's compensation fundamentally is a substitute for common-law compensatory damages against the employer. Discrimination is obvious if the law pays one employee 66⅔ percent of his monthly wage as compensation for total disability, but pays another employee only 17 percent, or any percentage less than 66⅔ percent. The proposed amount would eliminate these inequities by removing the flat dollar ceiling entirely, letting the percentage of the monthly pay control the amount of compensation in the manner provided in sections 3, 4, and 5 of the act. This is not a novel proposition, for a similar principle may be found in the compensation laws of some other jurisdictions. The number of employees whose compensation is thus adversely affected by a ceiling is not large, and the additional cost which the removal of the ceiling would occasion would be relatively insignificant. On the other hand, the hardships unjustly imposed by a flat ceiling on the individuals affected and their families are often real and profound. Moreover, removal of the arbitrary dollar ceiling will make unnecessary a periodic review of this provision by the Congress and would automatically keep benefit rates in proper relation to fluctuations in pay in future cases.

Section 106: Subsection (a) of this section would amend in several respects section 10 of the act which provides for compensation to the dependent survivors of employees killed on the job or dying from injuries received on the job. It would increase, from 66⅔ to 75 percent of the monthly pay, the combined aggregate maximum of monthly compensation which could be paid to all surviving dependents if in any given case there should be enough survivors in the several classes of dependents whose percentages, when added together, would total 75

percent of the pay. Since the principle of augmenting by $8\frac{1}{3}$ percent the percentage payable to a disabled employee having one or more dependents would be established by the bill for disabled workers, thus permitting a maximum compensation rate of 75 percent of pay in life cases, like recognition of the greater need of the family group is expressed by such increase to 75 percent of the monthly pay in death cases. The present limitation of 66 $\frac{2}{3}$ percent of the monthly pay is not sufficient to afford reasonable economic security to a family of a deceased worker where there is a large family. In some cases at present, because of the 66 $\frac{2}{3}$ percent over-all limitation, the separate percentages allowable to particular beneficiaries such as children, parents, etc., must be diminished proportionately, thereby often making the statutory rates for these various classes illusory. The increase in the over-all family maximum is necessary, moreover, to give true effect to the increases in the individual percentages for the surviving spouse and children mentioned below.

There is also proposed a readjustment in the percentages of the decedent's monthly pay payable as compensation to widows (or dependent widowers) and to children. The proposed amendment would give to the widow (or dependent widower) of the deceased employee 45 percent of the decedent's monthly pay if there is no child, but if there should be a child, the widow (or dependent widower) would receive 40 percent. (Under present law, the surviving spouse would be entitled to 35 percent of pay in either case.) In addition, there would be paid 15 percent of the monthly pay for each child, as compared with 10 percent under the present law. Where there is no widow or dependent widower, 35 percent (instead of the present 25 percent) would be paid for the first child, and 15 percent (instead of 10 percent) for each additional child, share and share alike.

Subsection (b) of section 106 would amend clause (K), section 10, of the act by increasing the minimum monthly pay used in computing death benefits from \$87.50 to \$150, and would eliminate the flat dollar ceiling on such pay so as to accord with the changes in the corresponding provisions in section 6 (c) of the act as amended by section 105 of this bill, explained above.

Subsection (c) of section 106 would further change clause (B) of section 10, so as to make the entitlement of a widower dependent upon his being wholly dependent upon the deceased for support by reason of his physical or mental disability. The present law merely requires that the widower be "wholly dependent," without specifying the basis for this dependency.

Subsection (d) of section 110 would delete from clauses (C), (D), and (G) of section 10 a provision which now requires that compensation for a minor be paid to the minor's guardian. This amendment has proved burdensome in administration, especially when the minor has no legal guardian. It is the purpose of the amendment to permit the Administrator, when it appears to him that the interest of the minor would be served thereby, to cause payment to be made directly to the minor or to some other person for his use and benefit.

Subsection (e) of section 110 would broaden clause (L) of section 10 of the act, which provides a penalty for accepting compensation after marriage, so as to make the same penalty apply in other parallel situations which could arise by reason of the proposed amendments to sections 5 and 6.

Section 107: This section would amend section 11 of the act by increasing from \$200 to \$400 the maximum amount authorized for funeral and burial expenses, and is necessary in order to furnish decent burial. A similar increase to \$400 was recently enacted in respect to the (Federal) Longshoremen's and Harbor Workers' Compensation Act. Additional language has also been included which would authorize the return home or other disposition of the remains of an employee dying from causes other than his injury while away from home for the purpose of receiving medical or other treatment or services under the act. While the act now authorizes cost of transportation to the place of treatment, there is no provision to return the body if the employee should die under such circumstances, thus creating embarrassment in the disposition of remains.

Section 108: This section would amend section 40 of the act. Apart from some purely technical minor amendments thereto, the proposed amendments would enlarge the definition of "employee" so as to include within the coverage of the act all civilians engaged in the Federal service. The principal additions to coverage would be civilian officers of the United States in all of its branches, including, among others, Members of Congress and officers and employees of instrumentalities of the United States, if the instrumentality is wholly owned by the United States. Included also would be persons rendering personal services to the United States without compensation or for nominal compensation, provided that acceptance or use of such services is authorized by an act of Congress or that provision has been made by law for the payment of travel or other expenses of such persons while rendering personal services for the United States.

The inclusion of civilian officers as a category of persons within the purview of the act was for many years recommended by the former United States Employees' Compensation Commission in its annual reports to the Congress. Over the years many bills were introduced to accomplish this inclusion, one of them in 1943 having passed the Senate. Recommendations for amendment to enlarge the definition of "employee" to include civilian officers were at various times made by the Secretary of State, the Attorney General, the Reconstruction Finance Corporation, and other Federal agencies. During the recent war, the urgency of extending workmen's compensation benefits to civilian officers was stressed by the Secretary of State who was interested particularly in officers of the American Foreign Service, then being subjected to great physical dangers and risks against which they were unable to provide at their own expense.

There are very substantial and valid reasons for the inclusion of civilian officers of the Federal Government in all of its branches (executive, legislative, and judicial) within the protection of the act. Such civilian officers are frequently subjected to many of the same risks and hazards while in the performance of their duties as their subordinate employees. This is particularly true as regards hazards of travel. It is a necessary act of justice that they, or their dependents, should be protected by this law to the same extent as their subordinates while they are engaged upon their official duties. The Attorney General in an early recommendation upon this feature pointed out that such coverage would abrogate discrimination and would fill a gap in the existing statutory structure.

In administering the act in the past, it has been necessary to attempt to recognize and conform to the distinction between "officers" and "employees" of the United States, because the former are not at present protected by the act. The difficulty of making this distinction may be better understood by reference to the full opinions of the Attorney General, namely 31 Op. 184, and id. 201.

Moreover, while the act of March 3, 1905, as amended (31 U. S. C. 665), prohibits the departments and offices of the Government from accepting voluntary service for the Government or from employing personal services in excess of that authorized by law (except in case of sudden emergency involving the loss of human life or the destruction of property), certain agencies (the Selective Service System, for example) in recent years have been specifically authorized by Congress to accept the personal services of individuals for the United States on a voluntary uncompensated basis. Other agencies have received specific appropriations for the payment of transportation and other expenses of persons serving without, or for nominal, compensation or in advisory capacities. Pursuant to such authority, many persons with exceptional abilities and skills have faithfully served the United States and have performed services of a kind which they would have performed if regularly employed by the United States, but without any protection whatsoever under the Compensation Act in respect to injury or death while thus engaged. In some cases, as indicated in the general part of this report, the Congress has attempted to do justice to such persons or their survivors by way of private act, but this is obviously an inherently discriminatory, haphazard, and unsatisfactory method of dealing with the problem. Provision, therefore, is made in the bill for the coverage of such individuals under the act. See section 203, explained below, for the method of determining the compensation base in such cases.

The proposed amendment of section 40 of the Compensation Act is not intended to repeal specific statutory exclusions from the scope of the Compensation Act contained in other enactments relating to certain classes who are technically employees of the United States, such as seamen employed as employees of the United States through the War Shipping Administration and specifically excluded from coverage under the Compensation Act by the so-called Clarification Act, as amended (57 Stat. 45; 58 Stat. 188; 59 Stat. 38, U. S. C., title 50, appendix, sec. 1291).

Section 109: This section contains transitional provisions related directly to the payment of benefits in certain pending cases. Any liberalization of benefits in general will apply prospectively to cases of employees now in receipt of, or entitled to, compensation, whose disability or death was caused by injury prior to enactment of the amendments. Little, if any, benefit would be derived from any such liberalization in the cases of those individuals who were injured or killed in years past before the sharp rise in pay and living costs. For example, if an employee without dependents is receiving 66⅔ percent of the employee's pay at an old low rate, the beneficiary would not receive any benefit under the bill. Even if, when there are dependents, the compensation is increased to 75 percent of the old pay under the bill, the benefits will still be grossly inadequate. As the compensation rate in many pending cases is geared to an old rate of pay, it will be

necessary, if many beneficiaries on the rolls are to receive sufficient increase for subsistence, to provide specifically for them. Section 109 of the bill would do this conservatively by increasing the amount of the monthly pay at time of injury, used as a basis for computation of disability or death compensation, by 40 percent if the injury occurred before January 1, 1941, or by 10 percent if the injury occurred on or after that date but before July 1, 1946, provided that such increase shall not, in either event, exceed \$50. This percentage and this figure have been arrived at after consideration of the average increase in the pay of Federal employees. Since under the Compensation Act compensation is computed on the basis of pay which the employee had at the time of injury, these increases will apply to any death case in which the injury from which death resulted occurred before the dates specified, regardless of the date on which death ensued.

TITLE II—TECHNICAL AMENDMENTS

Section 201: This section would amend section 7 of the act by designating the present language of that section as subsection “(a),” and by adding a new subsection designated “(b),” the purpose of which would be to make clear that the right to compensation benefits under the act is exclusive and in place of any and all other legal liability of the United States or its instrumentalities which can be enforced by original proceeding in a civil action or in admiralty, or by any proceeding (administrative or judicial) under any other workmen’s compensation law or under any Federal tort liability statute.

Workmen’s compensation laws, in general, specify that the remedy provided thereunder shall be the employee’s (or the employee’s dependents’) exclusive remedy against the employer, except in those situations where the employer violates the law by failing to insure his compensation liability. The basic theory supporting such provisions is that the workmen’s compensation remedy constitutes a substitute for the employee’s former remedy at law for damages against his employer, including a like remedy available to dependents under death statutes. When the Employees’ Compensation Act was enacted in 1916, as a general proposition the United States could not be sued in tort by its employees or their dependents. In view of this, provision making the compensation remedy exclusive apparently was then not deemed by the Congress to be necessary. With the creation of corporate instrumentalities of Government and with the passage of various statutes authorizing the bringing of tort actions against the Government, new problems have arisen. Such statutes as the Suits in Admiralty Act, the Public Vessels Act, the Federal Tort Claims Act—and there may be others—authorize in general terms the bringing of damage actions against the United States. Federal employees claiming that these general statutes apply to them, and spurred by the inadequacy of the benefits under the Employees’ Compensation Act, have sued the Government under such statutes for injuries received in the course of their employment. Similarly, corporate instrumentalities created by the Government among their powers are authorized to sue and be sued, thus opening the way for the filing of suits by employees against such instrumentalities.

There does not appear to have been any purposeful intention in these instances to give to Government employees, or rather some of them, the right to sue the United States, in addition to or as an alternative to the right to workmen's compensation. This matter is of considerable interest to all Government agencies, especially to the corporate instrumentalities. The Reconstruction Finance Corporation, for example, has in the past evidenced particular interest in an amendment of this nature. As the remedy afforded under the Compensation Act, if amended in its benefit provisions as proposed, would afford employees and their dependents a planned and substantial protection, to permit other remedies by suit would not only be unnecessary, but would in general be uneconomical, both from the standpoint of the beneficiaries involved and the Government.

The committee amendment to subsection (b) of section 7 of the act strikes out the phrase "unless otherwise specifically provided by law" in the language making the compensation right exclusive. The phrase so deleted was intended to make certain that no other act of Congress, now in effect or hereafter enacted, should be construed to confer an additional remedy on employees of the United States in the face of the subsection under discussion, unless such other statute should state specifically that the remedy therein afforded is given in addition to the remedy under the Compensation Act.

The Federal Security Agency, at the request of the Department of Justice, has informally expressed the view that the deleted phrase is unnecessary and that its inclusion in the subsection might be misconstrued as continuing the effectiveness of such Federal tort statutes as regards employees of the Government, and therefore that the exclusiveness of remedy intended might thus be defeated. The committee shares this view. It is the committee's purpose to have the language of such section 7 entirely clear in this respect so as to express the committee's intention that the compensation remedy shall henceforth be the exclusive remedy of a person protected by this act against the United States, or against its instrumentalities in cases in which a suable instrumentality is the employer. The other changes made by the committee are merely verbal and are likewise intended for clarity. It should be especially noted that the deletion of the phrase "wholly owned by it" is not intended to preclude an action in tort for injury or death of an employee against a liable third party (not the employer) which is responsible for the injury or death (see secs. 26 and 27 of the Compensation Act), even though such third party happens to be a Federal "instrumentality" not wholly owned by the United States, for example, a national bank. Nor is this amendment intended to extend coverage under the Compensation Act to employees of Federal instrumentalities not "wholly owned" by the United States. It is intended rather to avoid the contention that where a remedy is afforded under the Compensation Act, that remedy, though exclusive as against the United States, is not exclusive against a not "wholly owned" instrumentality in its capacity as such instrumentality or as employer.

Section 202: This section would designate the present text of section 9 of the act as subsection "(a)", and would add a new subsection designated "(b)" which would authorize the Administrator to direct any permanently disabled employee to undergo vocational

rehabilitation. It also would require the Administrator to make provision in such cases for rehabilitation services, utilizing, so far as practicable, the services and facilities of existing agencies. The cost of providing the services would be a direct charge against the employees' compensation fund, except as to certain expenses for which State vocational rehabilitation agencies are being reimbursed in full under the Vocational Rehabilitation Act. These provisions are deemed necessary to rehabilitate employees for gainful employment which, as pointed out above in the analysis of section 105, is ultimately for the benefit of both the employees and the Government, particularly in the saving of compensation costs. In order to provide uniformity in the case of services necessary for rehabilitation, and since the necessity for such rehabilitation arises directly out of an injury in Federal employment, the expense incident to furnishing the services should be borne by the employees' compensation fund, except to the extent indicated.

Section 203: This section would revise completely the language of section 12 of the act which at present is wholly inadequate for making just determinations in respect to an employee's monthly pay for the purpose of computing compensation benefits. The bill provides for a section of two parts, one defining the elements of pay to be considered, the other regulating the method of computing such pay.

The bill would retain so much of the old language as requires the taking into account of elements of pay in kind, such as the value of subsistence and quarters, and would include other forms of remuneration in kind for services, providing the value thereof can be estimated in money. The exclusion of overtime pay from computation of monthly pay is retained, and also excluded are such elements as additional pay or allowance authorized outside the United States because of differential in cost of living, etc., and bonus or premiums paid for extraordinary services, as such payments constitute bias factors and prevent proper and equitable determination of compensation.

Included in the revised section 12 is a complete formula for determining the monthly pay of an employee, which consists of an adaptation of similar provisions which may be found in section 10 of the Longshoremen's and Harbor Workers' Compensation Act (33 U. S. C. 910). A general formula of this kind will be found in most workmen's compensation laws. Such formula is time-tested and as nearly accurate as a formula can be made for the just and proper determination of an employee's monthly pay for computation purposes. These provisions are also similar to comparable provisions in the New York workmen's compensation law which have operated effectively for many years. Additional provisions, however, had to be included for the computation of "pay" where services were performed without pay or for nominal pay; for such cases the bill provides that the "pay," which is used as the basis for determining benefits, shall not exceed the basic pay for the regular top CAF and professional grades. In order to meet every possible situation that can be foreseen, the bill further provides that if the formulas therein cannot reasonably and fairly be applied to the case of an employee serving without pay or at nominal pay, the reasonable values of the employee's services shall be determined, but not in excess of \$3,600 per annum.

Section 204: This section would amend section 13, the present language of which would be brought into conformity with section 12

as above analyzed. This section provides for determining wage-earning capacity in partial disability cases. The elements to be taken into consideration in determining wage-earning capacity after injury, particularly after an injured employee returns to work, would be the same as the elements used under revised section 12 (b) in determining monthly pay at time of injury, so that elements of equal import may be considered, thus making possible a more nearly just appraisal of the effect of an injury upon an employee's wage-earning capacity. In addition, in subsection designated "(b)" of section 13 certain factors to be considered in determining wage-earning capacity are specified in a manner closely following the pattern of section 8 (h) of the Longshoremen's Act (33 U. S. C. 908 (h)).

Section 205: By revising or deleting obsolete language of the act, as has already been done in the United States Code, 1946 edition, this section would merely reflect the fact that the Federal Security Administrator (or officers or employees of the agency to whom he delegates powers) is charged with the administration of the act, the United States Employees' Compensation Commission having been abolished and its functions transferred to the Administrator by the President's Reorganization Plan No. 2 of 1946. The committee, moreover, believes that the Administrator's authority to delegate his powers under the Act should be more explicitly stated and has added an amendment to that effect. Further, by committee amendment the repeal of language in section 28a would affect only the first and third sentences of that section which have been executed, leaving the second sentence intact, as it still retains some usefulness.

Section 206: This section would amend section 38 of the act which provides that where compensation has been paid under mistake of law or fact, the award shall be cancelled and recovery made as far as practicable. Present statutory language, however, does not afford a basis for proper and equitable adjustments where overpayments have been made. The bill would divide section 38 into three subsections, the first of which would authorize the Administrator to recoup, out of the beneficiary's subsequent benefits, overpayments made to an individual because of an error of fact or law, but to spread such recoupment so as not to cause hardship, and to apply a similar process in respect to any benefits payable on account of such individual's death.

Subsection (b) would eliminate the necessity of imposing upon a beneficiary the burden of making repayment of an incorrect payment where the individual is without fault and where adjustment or recovery would defeat the purposes of the act or would be against equity and good conscience. Where recoupment and recovery are not waivable under this subsection, however, and recoupment under subsection (a) is not possible, recovery through other means is, of course, not intended to be precluded.

Subsection (c) contains provisions designed to harmonize with those in subsections (a) and (b), and would eliminate the possibility of a certifying or disbursing officer being held liable in cases in which recoupment or recovery is waived under such section or is not completed prior to the death of all persons against whose benefits recoupment is authorized. All of the provisions are analogous to those contained in section 204 of the Social Security Act, as amended.

Section 207: This section would add a new section, numbered 43, to the act to give it the short official title "Federal Employees' Compensation Act".

Section 208: This section, added by the committee, would clarify section 23 of the act concerning physician's fees, would designate such provisions as subsection (a), and would add two new subsections discussed below under "Committee Amendments."

TITLE III—TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

Section 301: This section does not amend any existing section of the act, but contains transitional provisions designed to extend the time limitations in such act, which apply to the giving of notice of injury and the filing of claim for compensation in cases of injury or death occurring outside the United States during the period of actual hostilities and for 1 year thereafter. Under the bill, such limitations would not begin to run until the date of its enactment. This provision is necessary because, as a result of the disruption of communications and the confusion caused by the war in certain areas affected by hostilities, compliance with time limitations in the act was, in many cases, difficult or impossible.

Section 302: This provision is intended to make it clear and unmistakable that the enactment of the amendments shall not be construed as giving rights to the reopening of cases in which individuals have been paid compensation or benefits pursuant to private relief legislation and thus have had their claims satisfied. This provision also includes cases compromised and settled as the result of any action sounding in tort or under maritime law, and to cases settled by lump-sum awards.

Section 303: This section provides for the dates upon which various provisions of the bill would become effective and is, in most parts, self-explanatory. The net effect is to make certain that the readjustment in the amount of benefits provided under the amendments (specifically mentioned in sec. 303) will be applicable, for the most part, prospectively as to cases of injury or death that occurred prior to enactment, in a manner similar to the increases in benefits in 1927 which were applied prospectively in the then pending cases.

Section 303 (d) is designed primarily to employ the usefulness of the schedule, provided for in the amendment to section 5 of the act, in cases in which compensation is being paid currently. This has been done by making the schedule applicable to any case in which the injury occurred within 1 year prior to enactment, provided that where injury occurred prior to enactment (except in major injury cases as specified in sec. 5 (b)), the employee would not be entitled to receive under the schedule unless he elects to do so within 1 year following enactment. If he should so elect, compensation heretofore paid for permanent disability involving a member or function of the body would be credited against any compensation under the schedule.

As to major member losses, that is, losses of an arm, hand, leg, foot, eye, or total permanent loss of hearing, or both ears, all of which are specified in section 5 (b) as it would be amended, and as to disfigurement, the committee has made the schedule provisions applicable to cases involving the total loss or loss of use thereof applicable in all

cases which have arisen on or after January 1, 1940. This is in recognition of the fact that from such date forward most employees were working under stresses and pressures arising from the national emergency and frequently under conditions of greater relative hazards. Moreover, such major losses occurred during the period of sharply rising wages and living costs which imposed greater financial burdens upon these severely handicapped employees than in times prior to 1940. They have not been adequately compensated for these losses and burdens which the bill would remedy.

It should be pointed out that the bill does not retroactively grant any benefits for any past periods of disability nor are death benefits retroactively increased. All changes in benefit payments would be made prospectively as though the injury or death occurred after enactment. The bill upon an equitable and properly selective basis merely would apply the new benefit provisions to old cases, with the new provisions operative as to future periods of time. (Disfigurement would involve a lump-sum payment.) There is also no duplication of benefits provided for or intended. For example, where the new schedule of indemnities for loss of members, etc. (the amendment of sec. 5) is to be applied in an old case, the payments for a minor scheduled injury (finger, toe, etc.) which an employee might elect to receive under the new provisions would be reduced by the amount the employee had received in respect to disability arising solely from the same loss under the old act. In the cases of major losses (arm, leg, etc.) the employee would receive only the amount provided by the schedule during the scheduled period, and after exhaustion of that amount his case would fall directly into the same category in respect to any further compensation as the case of an employee injured after enactment of the measure. The committee has amended section 303 (d) (1) of the bill to have it plainly express this intent.

Increased burial payments and other amendments to section 11 will apply only to deaths occurring after enactment of the bill.

As regards the proposed enlarged coverage of the act to include civilian officers and others, provision has been made for prospective benefits in such cases if injury or death occurred on or after December 7, 1941, but only as to those cases in which the individual suffered permanent partial or permanent total disability or has died. The time limitations for the giving of notice of injury and the filing of claim for compensation in such cases would not begin to run until enactment of the bill.

Section 304: This section is designed to make it clear that the time limitations of the act with respect to the giving of notice and the filing of claim for compensation shall not be affected by reason of enactment of the measure, except to the extent the bill expressly provides, and is thus intended to eliminate any possible ambiguity which the passage of the bill and its partial application to injuries and deaths occurring before enactment might otherwise create.

Section 305: This section would amend section 33 of the act by designating the first two paragraphs thereof as subsections (a) and (b) and by adding a new subsection (c) concerning safety promotion, which is fully explained below under "Committee Amendments."

TITLE IV—LIBERALIZATION OF THE MINIMUM AND MAXIMUM
COMPENSATION FOR EMERGENCY RELIEF WORKERS

Section 401: The provisions of the Employees' Compensation Act were extended in 1934 and at subsequent times to individuals employed by the United States under emergency relief programs. The act, as thus extended, applied only to limited case situations; namely, those arising from traumatic injury, exclusive of disease. The statutory provisions are principally in the act of February 15, 1934 (5 U. S. C. 796). These limited benefit provisions were extended from time to time to other similar groups employed by the United States under similar programs, including enrollees of the Civilian Conservation Corps. While the Federal Employees' Compensation Act was employed for its administrative provisions, the scale of benefits and the over-all or maximum benefit derived under the act, were very limited. The maximum monthly compensation was, ultimately, \$50 (originally \$25 and then \$30), with a further limitation of \$4,000 (formerly \$3,500) as the maximum aggregate compensation which could be paid in any one case. The monthly maximum compensation of \$50 and the over-all limitation of \$4,000 per case have been wholly inadequate to provide even the barest minimum security for those individuals who were permanently and totally disabled as the result of traumatic injury due to their employment. In the cases of most persons thus totally disabled, and in death cases, the \$4,000 maximum limit has been reached. There remains, as an essential act of justice, the necessity of providing for those remaining individuals who are totally disabled as the result of such work injuries, and for the dependents of the deceased workers who were killed as the result of employment causes, all of whom otherwise will be forced upon public or private charity.

Subsection (a) is designed to afford minimal additional relief against the harsh results of the limitations upon benefits applicable in such cases. The effect of the bill would be to provide a ceiling of \$100 per month as the maximum monthly compensation and a minimum of \$50 per month as compensation, with elimination of the \$4,000 limitation upon aggregate payments only as to cases of permanent total disability and death. The bill would make payment of any benefit or increased benefit operate prospectively only and retain the \$4,000 maximum limitation except in cases of permanent total disability and death.

Subsection (b) of section 401 would repeal those provisions of the Emergency Relief Appropriation Acts of 1937 and 1938 which raised, respectively, first to \$30 and later to \$50, the maximum monthly compensation in such cases and which increased to \$4,000 the aggregate compensation maximum, all of which would be superseded by the amendments to the 1934 act, contained in section 401 (a) of the bill, as above explained.

Section 401 (a) would also permit the Administrator, subject to the specified limitations on aggregate compensation and to maximum and minimum compensation per month, to supersede by a new schedule, adapted to changes since made in the Compensation Act, the special compensation schedule promulgated for emergency relief workers under the 1934 act.

Section 402: A legislative oversight occurred in the enactment of the joint resolution of July 25, 1947 (61 Stat. 449, 451), which was an act to terminate emergency and war powers. Certain acts were repealed thereby and among them the act of May 14, 1942, which had established the Women's Army Auxiliary Corps (WAAC). The 1942 act contained a section, section 11, which gave to members of such corps the protection of the Employees' Compensation Act. The members of that corps who sustained injuries, and the dependents of members who were killed as the result of service injuries, had eligibility to benefits under the Employees' Compensation Act until July 1, 1943, when the 1942 act which had established the Women's Army Auxiliary Corps was repealed and the (new) Women's Army Corps (WAC) was created. The act of July 1, 1943 (57 Stat. 371), had repealed all of the 1942 act except section 11 thereof which was permitted to remain in effect because of the existing cases of injured or killed members of the abolished corps (WAAC) in cases which had arisen before the effective date of the 1943 repealer act.

The joint resolution of July 25, 1947, again repealed the 1942 act, all of which, except for section 11, had previously been repealed. The net effect of the 1947 act was thus to repeal only section 11 of the 1942 act, thus casting doubt upon the basis for continuing benefit payments in the few remaining and pending injury and death cases which had arisen during the life of the Women's Army Auxiliary Corps (WAAC).

The provisions of section 402 of the bill are designed to restore section 11 of such 1942 act, so as to remove any doubt that a continuing basis will exist for payment under the Employees' Compensation Act in the few pending cases which remain. Research into the legislative history of the particular part of the joint resolution of July 25, 1947, does not disclose any reason whatsoever for the repeal of such section 11. That it was inadvertent may be easily inferred from the circumstances.

COMMITTEE AMENDMENTS

The committee amendments set forth in the first part of this report consist largely of minor verbal changes for the purpose of clarity which in the main are self-explanatory. Any significant change has been commented upon in the foregoing analysis, save the addition of two new sections to the bill numbered 208 at page 29 and 305 at page 36.

1. The committee has added section 208, which would amend section 23 of the act in order to give the Administrator authority to give recognition to authorized attorneys or other representatives of the claimant and to provide for approval of fees. There is no provision at present in the Employees' Compensation Act relative to representation or the approval of representatives' fees. Such a provision is necessary for the protection of claimants and will be found in other comparable legislation. In fact, provision governing representatives' fees will be found in certain extensions of the Employees' Compensation Act to other groups although it is absent in the basic act. Similar provisions also will be found in the Social Security Act and in the Longshoremen's and Harbor Workers' Compensation Act.

The new section 23 is divided into three subsections designated respectively "(a)," "(b)," and "(c)." Subsection (a) contains the

present language in section 23 of the act modified slightly for clarity and removal of any doubt as to the classes of physicians whose fees are not to be determined. Subsection (b) will provide for the fixing of attorneys' fees as above commented upon. Subsection (c) is intended to require obedience to orders, processes, etc., issued or required in the administration of the act and to provide a sanction for disobedience of a lawful order or process or for misconduct or contumacy at or near any proceeding under the act.

2. The committee has further added section 305 to the bill, which would designate the present provisions of section 33 of the act as subsections (a) and (b) and would add a new subsection (c), authorizing safety promotion by agency heads and the establishment of an advisory safety council.

It is the committee's view that even greater and more effective results can be achieved in the matter of safety and accident prevention than is accomplished by the Agency at present under the limited authority it has in the act, by drawing more closely together the various safety programs carried out within government. It is necessary that all departments and agencies of government have and maintain their own safety organizations fitted to their particular needs. But this is not enough. Much valuable experience accumulates in the Bureau of Employees' Compensation of the Federal Security Agency by reason of the workmen's compensation reports and claims it receives. This is vital resource material which leads directly to causes of accidents, and patterns of risks. Experience can be gleaned from this material much broader in scope than that from the contacts of any local or agency safety organization. Moreover, such Bureau is in the unique position of being able to spot-check the injury reports themselves and to pick out potential causes of injury long in advance of locally recognized patterns of risk, because of the broader scope of the Bureau's work.

The committee believes that such Bureau can accomplish the most effective results if its resources should be fully exploited and if it should be given the staff and assistance necessary to do a thorough job. With this as a worth-while goal to achieve, the committee proposes that authority be given to the President to establish by Executive order a safety council composed of representatives of all Government departments and agencies. Such council would serve as an advisory body to the Administrator and thus bring to him, individually and collectively, their own experiences and recommendations which, when added to the wealth of resource material and Government-wide experience of the Bureau in the matter of causes of accidents, should result in more effective employment of the statutory provisions of the Federal Employees' Compensation Act dealing with safety and accident prevention.

The committee's first concern is the reduction of the toll of human suffering and death through elimination of preventable causes. Its second concern is in saving compensation costs. Private industry learned many years ago that safety and accident prevention programs give large returns both in terms of suffering avoided and reduced operating and compensation costs. That such programs afford larger financial returns than their cost is attested to by the universality with which they are accepted. This committee is of the view that the Government could not only recoup the cost of an effectively inte-

grated safety program, but the over-all savings in costs may well cover, in addition, the increased compensation costs.

CONCLUSION

The committee realizes that legislative authorization for the liberalization and modernization of the Federal Employees' Compensation Act—long overdue and important though it be—must depend upon adequate administrative machinery so as to assure, on the one hand, fair and equitable treatment of the employee and his dependents, with prompt determination of his claim at either the initial or appeal stage, and, on the other, adequate protection of the Government against payment of improper claims. This, of course, requires adequate and competent staffing, so as to permit more effective development and adjudication of claims. Recognition of these facts is especially important in connection with the present amendments, which will add substantially to the responsibilities of the Agency in implementing and administering the statutory changes.

The modification of the benefit provisions of the Compensation Act, as proposed by the bill, as amended, by the committee, will increase the annual cost of such benefits and will also necessitate an increase in the cost of administration, both in the transitional period incident to the review of the outstanding cases and thereafter. A survey of cost estimates indicates a probable annual amount of some \$7,500,000 for increased compensation benefits. The proposed new benefits of necessity call for equipping the administrative agency with a fully adequate staff for field investigation and supervision of claim procedure, as well as for employing all the resources available to the Agency to best advantage in the prevention of accidents in the employments covered.

The committee strongly recommends that the appropriate committee dealing with the fiscal affairs of the Agency consider the financial gain which the Government could accomplish by providing for an adequate staff for the administration of the Compensation Act. The committee feels that the Agency has not anywhere near sufficient personnel to enable it to give that measure of protection to the interests of the United States which under a workmen's compensation law an ordinary private employer or insurer would insist upon to protect himself from improper claims. The processes under the act are highly informal, with no hearings provided at the level of adjudication. The Agency must of necessity rely largely upon the written word, without opportunity for cross-examination, in the cases coming before it. The only means of protecting the Government's interests is that afforded by a small and wholly inadequate staff of investigators and claims adjudicators. The increased benefits under the bill necessarily will impose greater responsibilities for correct and just decisions to the employee and Government alike. These responsibilities can be met in this instance only by providing for the necessary skilled personnel. This is one of the fields of Government activity in which adequate staffing will actually accomplish a saving in over-all costs through better investigation of claims and prompt termination of benefits through closer supervision of cases by the claims adjudicators. A misjudgment of evidence by an overburdened claims examiner resulting in the allowance of a single claim, or a failure to obtain adequate

evidentiary basis for terminating payments in a single case, could easily cost the Government many times that examiner's salary for that year. Stated differently, the saving to the Government would be much more than proportional to salaries paid for an increase in such staff to the optimal point at which attention can be given to each case to the extent that particular case requires, and all cases needing field inquiry can receive that investigation which they require. Anything short of such adequacy is the falsest kind of economy.

In addition, it is estimated that retrospective coverage for major injuries under the schedule added by section 104 of the bill, as recommended by the committee, would involve an expenditure of an additional \$8,000,000 spread over a period of 6 years.

During the consideration of this bill it was brought to the committee's attention that frequently in the case of payments made to persons not residing in the United States, the United States Government checks were being sold in the black market at several times the legal rate of exchange. It is the belief of the committee that this problem (of payments under the compensation act to persons in foreign countries) is but a small part of a much larger problem and should be dealt with by general legislation aimed at preventing the exploitation of United States currency in black markets of foreign countries which are suffering from inflated domestic currency.

To the extent that cases are adequately supervised and investigated and causes of accidents ferreted out and eliminated, the over-all cost of benefit payments should be noticeably reduced. The committee notes with considerable satisfaction a sharp decline shown in recent reports of accident frequency and severity rates. The machinery for the administration of the act should be strengthened to continue this downward trend and enable the agency to establish safety standards and procedures. Current trends, if sustained by adequate and prudent administration, may well reflect the possibility of providing Government employees with increased benefits without much if any appreciable or real additional cost to the Government. This would come about through greater emphasis on accident prevention and through increased awareness on the part of Federal establishments of the tremendous human and financial losses from preventable causes. The Government, therefore, should pass along to the injured workers, in the form of more adequate benefits, some of the savings which are in no small measure due to the cooperation and efficiency of the employees themselves in their effort to eliminate hazardous conditions.

CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics; existing law in which no change is proposed is shown in roman):

FEDERAL EMPLOYEES' COMPENSATION ACT

* * * * *

SEC. 2. That **[during]** *with respect to* the first three days of *temporary* disability the employee shall not be entitled to compensation except as provided in section 9**].** **[No compensation shall at any time be paid for such period.]**, *unless such*

disability exceeds twenty-one days in duration or is followed by permanent disability.

[SEC. 3. That if the disability is total the United States shall pay to the disabled employee during such disability a monthly compensation equal to 66½ per centum of his monthly pay, except as hereinafter provided.]

SEC. 3. (a) *Except as otherwise provided in this Act, if the disability is total the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66½ per centum of his monthly pay, which shall be known as his basic compensation for total disability.*

(b) *Loss, or loss of use, of both hands, or both arms, or both feet, or both legs, or both eyes or the sight thereof, or of any two thereof shall, prima facie, constitute permanent total disability.*

[SEC. 4. That if the disability is partial the United States shall pay to the disabled employee during such disability a monthly compensation equal to 66½ per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability. The commission² may, from time to time, require a partially disabled employee to make an affidavit as to the wages which he is then receiving. In such affidavit the employee shall include a statement of the value of housing, board, lodging, and other advantages which are received from the employer as a part of his remuneration and which can be estimated in money. If the employee, when required, fails to make such affidavit, he shall not be entitled to any compensation while such failure continues, and the period of such failure shall be deducted from the period during which compensation is payable to him.]

SEC. 4. (a) (1) *Except as otherwise provided in this Act, if the disability is partial the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66½ per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability, which shall be known as his basic compensation for partial disability.*

(2) *The Administrator may require a partially disabled employee to make an affidavit or other report, in such manner and at such times as the Administrator may specify, as to his earnings, whether from employment or self-employment. In such affidavit or other report the employee shall include, when required, the value of housing, board, lodging, and other advantages which are part of his remuneration for employment or are earnings in self-employment and which can be estimated in money. If such individual, when required, fails to make such affidavit or other report, or if in such affidavit or report the employee knowingly omits or understates any part of such earnings or remuneration, he shall forfeit his right to compensation with respect to any period for which such report was required to be made, and such compensation, if already paid, shall be recovered by deducting the amount thereof from the compensation payable to him or otherwise recovered in accordance with section 38, unless such recovery is waived pursuant to such section.*

(b) *If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation.*

[SEC. 5. That if a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation.]

SEC. 5. (a) *In any case of permanent disability which involves solely the loss, or loss of use, of a member or function of the body, or disfigurement, as provided in the following schedule, basic compensation for such disability shall, in addition to compensation for any temporary total or temporary partial disability, be payable to the disabled employee for the period specified in such schedule at the rate of 66½ per centum of his monthly pay and shall, except as otherwise provided in subsection (b), be in lieu of compensation for such permanent disability under the preceding sections of this Act:*

- (1) *Arm lost, three hundred and twelve weeks' compensation.*
- (2) *Leg lost, two hundred and eighty-eight weeks' compensation.*
- (3) *Hand lost, two hundred and forty-four weeks' compensation.*
- (4) *Foot lost, two hundred and five weeks' compensation.*
- (5) *Eye lost, one hundred and sixty weeks' compensation.*
- (6) *Thumb lost, seventy-five weeks' compensation.*
- (7) *First finger lost, forty-six weeks' compensation.*
- (8) *Great toe lost, thirty-eight weeks' compensation.*
- (9) *Second finger lost, thirty weeks' compensation.*
- (10) *Third finger lost, twenty-five weeks' compensation.*
- (11) *Toe other than great toe lost, sixteen weeks' compensation.*
- (12) *Fourth finger lost, fifteen weeks' compensation.*

(13) *Loss of hearing:* (A) Complete loss of hearing of one ear, fifty-two weeks' compensation; (B) complete loss of hearing of both ears, two hundred weeks' compensation.

(14) *Binoocular vision or percentage of vision:* Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for the loss of the eye.

(15) *Phalanges:* Compensation for loss of more than one phalanx of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalanx shall be one-half of the compensation for loss of the entire digit.

(16) *Amputated arm or leg:* If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation shall be the same as for the loss of the arm or leg, respectively.

(17) *Two or more digits:* Compensation for loss, or loss of use, of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, shall be proportioned to the loss of use of the hand or foot occasioned thereby.

(18) *Total loss of use:* Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

(19) *Partial loss or partial loss of use:* Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. The degree of loss of vision or hearing under this schedule shall be determined without regard to correction.

(20) *In any case in which there shall be a loss or loss of use, of more than one member or parts of more than one member as enumerated herein, the award of compensation shall be for the loss, or loss of use, of each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.*

(21) *Disfigurement:* Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision), or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual's basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be 66⅔ per centum of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is total or as provided in subsection (a) of section 4 if the disability is partial.

(c) The period of compensation payable under the schedule to subsection (a) of this section on account of any injury shall be reduced by the period of compensation paid or payable under such schedule on account of a prior injury if compensation in both cases is for disability of the same member or function, or different parts of the same member or function, or for disfigurement, and the Administrator finds that compensation payable on account of the subsequent disability in whole or in part would duplicate the compensation payable on account of the preexisting disability. In such cases, for the purposes of disabilities specified in subsection (b), compensation for disability continuing after the scheduled period shall commence upon expiration of such period as reduced under this subsection.

(d) (1) If an individual who has sustained disability compensable under subsection (a) (including any disability compensable under the schedule to subsection (a) by virtue of subsection (b)), and who has filed a valid claim in his lifetime, dies, from causes other than the injury, before the expiration of the compensable period specified in such schedule, the compensation specified in such schedule and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in such schedule, to and for the benefit of the persons then in being within the classes and in the proportions and upon the conditions specified in this subsection and in the order named:

(A) to the widow (as defined in section 10 (H)) or wholly dependent widower (as specified in section 10 (B)), if there is no child (as so defined) under the age of eighteen or incapable of self-support; or

(B) if there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

(C) if there is no such widow or widower but such a child or children, then to such child or children; or

(D) if there is no survivor in the above classes, then to the parent or parents wholly or partly dependent for support upon the decedent, or to other wholly or partly dependent relatives listed in section 10 (F), or to both, in such proportions as may be provided by regulation; or

(E) if there is no survivor in any of the above classes, and no burial allowance is payable under section 11, then such amount, not exceeding the amount which would be expendable under section 11 if such section were applicable, shall be paid to reimburse any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual's death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent partial disability specified in subsection (b), even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would have been payable to him had such entitlement continued shall be payable to the surviving beneficiary or beneficiaries, if any, within the same class or, if there are none, then to the beneficiary or beneficiaries next entitled to priority under such paragraph.

[SEC. 6. That the monthly compensation for total disability shall not be more than \$116.66, nor less than \$58.33, unless the employee's monthly pay is less than \$58.33, in which case his monthly compensation shall be the full amount of his monthly pay. The monthly compensation for partial disability shall not be more than \$116.66. In the case of persons who at the time of the injury were minors or employed in a learner's capacity and who were not physically or mentally defective the commission shall, on any review after the time when the monthly wage-earning capacity of such persons would probably, but for the injury, have increased, award compensation based on such probable monthly wage-earning capacity. The commission may, on any review after the time when the monthly wage-earning capacity of the disabled employee would probably, irrespective of the injury, have decreased an account of old age, award compensation based on such probable monthly wage-earning capacity.]

[In addition to the monthly compensation the Employees' Compensation Commission may pay an injured employee awarded compensation for permanent total disability from injury an additional sum of not more than \$50 a month, as the commission may deem necessary, when the commission shall find that the service of an attendant is necessary constantly to be used by reason of the employee being totally blind, or having lost both hands or both feet or the use thereof, or is paralyzed and unable to walk, or by reason of other total disability actually rendering him so helpless as to require constant attendance.]

SEC. 6. (a) (1) While the disabled employee has one or more dependents, his basic compensation for disability payable under section 3 or section 5 (a) (including compensation payable under the schedule to section 5 (a) by virtue of section 5 (b)) shall be augmented at the rate of 8½ per centum of his monthly pay, and his basic compensation for disability payable under section 4 (a) shall be augmented at the rate of 8½ per centum of the difference between his monthly pay and his monthly wage-earning capacity.

(2) As used in this subsection, the term "dependent" shall mean any of the following:

(A) A wife, if (i) she is a member of the same household as the employee or is receiving regular contributions from him toward her support, or (ii) he has been ordered by any court to contribute to her support.

(B) A husband, if wholly dependent by reason of his own physical or mental disability upon the employee for support.

(C) An unmarried child (as defined in section 10 (H)), while such child (i) is under eighteen years of age or, if over eighteen, is incapable of self-support by

reason of mental or physical disability, and (ii) is living with the employee or receiving regular contributions toward his support from the employee.

(D) A parent (as defined in section 10 (H)), while wholly dependent upon and supported by the employee.

(b) (1) In addition to the monthly compensation otherwise specified in this Act, the Administrator may pay an injured employee, who has been awarded compensation for permanent total disability from injury, an additional sum of not more than \$75 a month, as the Administrator may deem necessary, when the Administrator shall find that the service of an attendant is necessary constantly to be used by reason of the employee's being total blind, or having lost both hands or both feet or the use thereof, or being paralyzed and unable to walk, or by reason of other total disability actually rendering him so helpless as to require constant attendance.

(2) The Administrator may pay to any disabled individual who is undergoing vocational rehabilitation pursuant to the Administrator's direction under section 9 (b) additional compensation necessary for his maintenance, but not to exceed \$50 per month.

(c) Except as otherwise authorized under section 42, the monthly rate of compensation for total disability, including any augmented compensation payable by reason of subsection (a) but not including any sum payable by reason of subsection (b), shall not be less than \$112.50 per month, unless the employee's monthly pay is less in which case his monthly rate of compensation shall be equal to his full monthly pay.

(d) (1) In the case of any person who at the time of the injury was a minor or employed in a learner's capacity and who, prior to the injury, was not physically or mentally handicapped, the Administrator shall, on any review under section 37 after the time when the wage-earning capacity of such person would probably, but for the injury, have increased, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable increased wage-earning capacity. The Administrator may, on any review under section 37 after a disabled employee has attained the age of seventy years and the wage-earning capacity of the disabled employee would probably, aside from and independently of the effects of the injury, have decreased on account of old age, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable decreased wage-earning capacity.

(2) If a disabled individual, without good cause, fails to apply for and undergo vocational rehabilitation when so directed pursuant to section 9 (b), and the Administrator, upon review under section 37, finds that in the absence of such failure the individual's wage-earning capacity would probably have substantially increased, the Administrator may prospectively reduce the individual's monetary compensation in accordance with what would probably have been his wage-earning capacity in the absence of such failure, until the individual in good faith complies with the Administrator's direction.

SEC. 7. (a) That as long as the employee is in receipt of compensation under this Act, or, if he has been paid a lump sum in commutation of installment payments, until the expiration of the period during which such installment payments would have continued, he shall not receive from the United States any salary, pay, or remuneration whatsoever except in return for services actually performed, and except pensions for service in the Army or Navy of the United States: *Provided*, That whenever any person is entitled to receive any benefits under this Act by reason of his injury, or by reason of the death of an employee, as defined in section 40, and is also entitled to receive from the United States any payments or benefits (other than the proceeds of any insurance policy), by reason of such injury or death under any other Act of Congress, because of service by him (or in the case of death, by the deceased) as an employee, as so defined, such person shall elect which benefits he shall receive. Such election shall be made within one year after the injury or death, or such further time as the [commission] Administrator may for good cause allow, and when made shall be irrevocable unless otherwise provided by law.

(b) The remedy afforded to any person under this Act with respect to his own injury or the death of another individual shall, unless otherwise specifically provided by law, be the exclusive remedy against, and be in place of any other legal liability of, the United States, or any of its instrumentalities wholly owned by it, on account of such injury or death, where such liability is determinable by direct judicial proceedings at law or in admiralty, or by proceedings under any other workmen's compensation law or under any Federal tort liability statute.

SEC. 8. [That if] If at the time the disability begins the employee has annual or sick leave to his credit he may [], subject to the approval of the head of the department, use such leave until it is exhausted, in which case his compensation

for disability shall **[begin on the fourth day of disability after]** *not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased.*

SEC. 9. (a) That for any injury sustained by an employee while in the performance of duty, whether or not disability has arisen, the United States shall furnish to the employee all services, appliances, and supplies prescribed or recommended by duly qualified physicians which, in the opinion of the **[commission]** *Administrator*, are likely to cure or to give relief or to reduce the degree or the period of disability or to aid in lessening the amount of the monthly compensation. Such services, appliances, and supplies shall be furnished by or upon the order of United States medical officers and hospitals, but where this is not practicable they shall be furnished by or upon the order of private physicians and hospitals designated or approved by the **[commission]** *Administrator*. For the securing of such services, appliances, and supplies, the employee may be furnished transportation, and may be paid all expenses incident to the securing of such services, appliances, and supplies, which, in the opinion of the **[commission]** *Administrator*, are necessary and reasonable. All such expenses when authorized or approved by the **[commission]** *Administrator* shall be paid from the employees' compensation fund. Any award heretofore made by the commission on account of expenses incurred under section 9 of the Act of September 7, 1916, prior to the passage of this Act, shall be valid, if such award would be valid if made on account of expenses incurred under this section after the passage of this Act.

(b) *The Administrator may direct any permanently disabled individual whose disability is compensable under this Act to undergo vocational rehabilitation and shall make provision for furnishing vocational rehabilitation services in such cases. In providing for such services, the Administrator shall, insofar as practicable, utilize the services or facilities of State agencies (or corresponding agencies in Territories or possessions) cooperating with him in carrying out the purposes of the Vocational Rehabilitation Act, as amended, except to the extent that the Administrator provides for furnishing such services under subsection (c) of this section. The cost of providing such services to individuals undergoing vocational rehabilitation pursuant to such direction shall be paid from the employees' compensation fund, except that in reimbursing any State agency (or corresponding agency of a Territory or possession) under any arrangement pursuant to this subsection there shall be excluded any cost to such agency reimbursable in full under section 3 (a) (4) of the Vocational Rehabilitation Act, as amended.*

SEC. 10. That if death results from the injury the United States shall pay to the following persons for the following periods a monthly compensation equal to the following percentages of the deceased employees' monthly pay -

(A) To the widow, if there is no child, **[35] 45 per centum.** This compensation shall be paid until her death or marriage.

(B) To the widower, if there is no child, **[35] 45 per centum** if wholly dependent for support, *by reason of his physical or mental disability*, upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage or until he becomes capable of self-support.

(C) To the widow or widower, if there is a child, **[the compensation payable under clause (A) of clause (B)] 40 per centum**, and in addition thereto **[10] 15 per centum** for each child, not to exceed a total of **[66%] 75 per centum** for such widow or widower and children. **[If a child has a guardian other than the surviving widow or widower, the compensation payable on account of such child shall be paid to such guardian.]** The compensation payable on account of any child shall cease when he dies, marries, or reaches the age of eighteen, or, if over eighteen, and incapable of self-support, becomes capable of self-support.

(D) To the children, if there is no widow or widower, **[25] 35 per centum** for one child and **[10] 15 per centum** additional for each additional child, not to exceed a total of **[66%] 75 per centum**, divided among such children share and share alike. The compensation of each child shall be paid until he dies, marries, or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support. **[The compensation of a child under legal age shall be paid to its guardian.]**

(E) To the parents, if one is wholly dependent for support upon the deceased employee at the time of his death and the other is not dependent to any extent, 25 per centum; if both are wholly dependent, 20 per centum to each; if one is or both are partly dependent, a proportionate amount in the discretion of the **[commission]** *Administrator*.

The above percentages shall be paid if there is no widow, widower, or child. If there is a widow, widower, or child, there shall be paid so much of the above

percentages as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of ~~66~~⁷⁵ per centum.

(F) To the brothers, sisters, grandparents, and grandchildren, if one is wholly dependent upon the deceased employee for support at the time of his death, 20 per centum to such dependent; if more than one are wholly dependent, 30 per centum, divided among such dependents share and share alike; if there is no one of them wholly dependent, but one or more partly dependent, 10 per centum divided among such dependents share and share alike.

The above percentages shall be paid if there is no widow, widower, child, or dependent parent. If there is a widow, widower, child, or dependent parent, there shall be paid so much of the above percentages as, when added to the total percentage payable to the widow, widower, children, and dependent parents, will not exceed a total of ~~66~~⁷⁵ per centum.

(G) The compensation of each beneficiary under clauses (E) and (F) shall be paid from the time of death, until he, if a parent or grandparent, dies, marries, or ceases to be dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen, or, if over eighteen and incapable of self-support, becomes capable of self-support. ~~The compensation of a brother, sister, or grandchild under legal age shall be paid to his or her guardian.~~

* * * * *

(J) In case there are two or more classes of persons entitled to compensation under this section and the apportionment of such compensation, above provided, would result in injustice, the ~~commission~~ Administrator may, in its discretion, modify the apportionment to meet the requirements of the case.

(K) In computing compensation under this section the monthly pay shall be considered not to be ~~more than \$175 nor~~ less than ~~[\$37.50]~~ \$150, but the total monthly compensation shall not exceed the monthly pay computed as provided in section 12.

(L) If any person entitled to compensation under this section *or section 5 or 6*, whose compensation by the terms of this *or of such other section* ceases *or is to be reduced* upon his marriage *or upon the marriage of his dependent*, accepts any payments ~~of~~ or compensation after ~~this~~ such marriage, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

Sec. 11. ~~That if~~ If death results from the injury the United States shall pay, to the personal representative of the deceased employee *or otherwise*, funeral and burial expenses not to exceed ~~[\$200]~~ \$400, in the discretion of the ~~Commission~~ Administrator. In the case of an employee whose home is within the United States, if his death ~~occurs~~ results from the injury while he is away from his home ~~office~~ or official station or is outside of the United States, or if his death results from other causes while he is away from his home or official station for the purpose of receiving medical or other services, appliances, or supplies under section 9 or examination under section 21, and if so desired by his relatives, the body shall, in the discretion of the ~~Commission~~ Administrator, be embalmed and transported in a hermetically sealed casket to the home or last place of residence of the employee at the expense of the employees' compensation fund. If, in such cases, request for return of the body is not made by the decedent's relatives, the Administrator may provide for the disposition of the remains and incur, and cause payment from the employees' compensation fund of, such necessary transportation, funeral, and burial expenses as under the circumstances shall be reasonable.

~~Sec. 12. That in computing the monthly pay the usual practice of the service in which the employee was employed shall be followed. Subsistence and the value of quarters furnished an employee shall be included as part of the pay, but overtime pay shall not be taken into account.~~

Sec. 12. (a) In computing monetary compensation for disability or death upon the basis of monthly pay, such pay shall be determined in accordance with the provisions of this section.

(b) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, shall be included as part of the pay. Overtime pay, or additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstance, or bonus or premium pay for extraordinary service (including amounts paid as bonus for particularly hazardous service in time of war) shall not be taken into account. The term "overtime pay", as used in this subsection, means pay for hours of service in excess of those of a statutory or other basic workweek, or other basic unit of work time, as observed by the establishment in which the employee is employed.

(e) (1) The monthly pay at the time of injury shall be deemed to be one-twelfth of the employee's average annual earnings at that time, except that when compensation is paid upon a weekly basis, the weekly equivalent of such monthly pay shall be deemed to be one-fifty-second of such average annual earnings: Provided, That, for so much of the period of total disability as does not exceed ninety calendar days from the date of the beginning of compensable disability, the compensation may, in the discretion of the Administrator, be computed on the basis of the employee's actual daily wage at the time of injury and in that event he may be paid compensation for such days as he would have worked but for the injury.

(2) Average annual earnings shall be determined as follows:

(A) If the employee worked in the employment in which he was working at the time of his injury during substantially the whole of the year immediately preceding such injury, his average annual earnings shall consist of the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by three hundred if he was employed on the basis of a six-day workweek, two hundred and eighty if employed on the basis of a five-and-one-half-day week, and two hundred and sixty if employed on the basis of a five-day week, except that if the employment was in a position for which an annual rate of compensation was fixed, such average annual earnings shall consist of such annual rate of compensation.

(B) If the injured employee did not work in such employment during substantially the whole of such year, but the position was such as would have afforded employment for substantially a whole year, then the average annual earnings of such employee shall be equal to the average annual earnings of an employee of the same class working substantially the whole of such immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined in accordance with clause (A).

(C) If either of the foregoing methods of determining the average annual earnings of an injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring locality, or to other previous employment of such employee, or to any other relevant factors, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury: Provided, That his average annual earnings shall consist of not less than one hundred and fifty times the average daily wage which he shall have earned in such employment during the days when so employed within the period of one year immediately preceding his injury.

(D) Such rules shall, so far as practicable, be also applied in the case of an employee serving without pay or at nominal pay: Provided, That (i) the average annual earnings shall in no event exceed the basic rate of annual compensation specified under the Classification Act of 1923, as amended, for positions in grade CAF-15 or P-8 at the bottom of such grade, and (ii) if his average annual earnings cannot reasonably and fairly be determined in the manner otherwise provided in this section, such average annual earnings shall be determined at the reasonable value of the service rendered but not in excess of \$3,600 per annum.

(d) As used in this section the term "year" means a period of twelve calendar months, or the equivalent thereof as specified in regulations issued by the Administrator.

SEC. 13. (a) [That in] In the determination of [the] an employee's monthly wage-earning capacity after the beginning of partial disability, [the value of housing, board, lodging, and other advantages which are received from his employer as a part of his remuneration and which can be estimated in money shall be taken into account] the rules specified in section 12 (b) shall apply.

(b) The wage-earning capacity of an injured employee, in determining compensation for partial disability other than permanent partial disability compensable under section 5 (a), shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: Provided, however, That if the employee has no actual earnings, or his actual earnings do not fairly and reasonably represent his wage-earning capacity, such wage-earning capacity as shall appear reasonable under the circumstances of the case shall be determined, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition.

SEC. 14. * * * [commission] Administrator * * *.

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SEC. 17. * * * [commission] Administrator * * *.

SEC. 18. * * * Such claim shall be made by delivering it at the office of the [commission] Administrator [or to any commissioner] or to any person whom the [commission] Administrator may by regulation designate, or by depositing it in the mail properly stamped and addressed to the [commission] Administrator or to any person whom the [commission] Administrator may by regulation designate.

SEC. 19. That every claim shall be made on forms to be furnished by the [commission] Administrator and shall contain all the information required by the [commission] Administrator. * * * For any reasonable cause shown the [commission] Administrator may waive the provisions of this section.

SEC. 20. * * * For any reasonable cause shown the [commission] Administrator may allow original claims for compensation for disability to be made at any time within one year. Failure to give notice of injury or to file claim for compensation for disability or death within the time and in the manner prescribed by this Act shall not bar the claim of any person thereunder if such claim is filed within five years after the injury or death and if the [commission] Administrator shall find (1) that such failure was due to circumstances beyond the control of the person claiming benefits, or (2) that such person has shown sufficient cause or reason in explanation thereof, and material prejudice to the interest of the United States has not resulted from such failure; and upon such finding the [commission] Administrator may waive compliance with the applicable provisions of the Act.

SEC. 21. That after the injury the employee shall, as frequently and at such times and places as may be reasonably required, submit himself to examination by a medical officer of the United States or by a duly qualified physician designated or approved by the [commission] Administrator. * * *

For any examination required by the [commission] Administrator the employee shall be paid all expenses incident to such examination which, in the opinion of the [commission] Administrator, are necessary and reasonable, including transportation and loss of wages incurred in order to submit to examination. All such expenses when authorized or approved by the [commission] Administrator shall be paid from the employees' compensation fund.

SEC. 22. That in case of any disagreement between the physician making an examination on the part of the United States and the employee's physician the [commission] Administrator shall appoint a third physician, duly qualified, who shall make an examination.

SEC. 23. That fees for examinations made on the part of the United States under sections 21 and 22 by physicians who are not already in the service of the United States shall be fixed by the [commission] Administrator. Such fees, and any sum payable to the employee under section 21, when authorized or approved by the [commission] Administrator, shall be paid from the employees' compensation fund.

SEC. 24. That immediately after an injury to an employee resulting in his death or in his probable disability, his immediate superior shall make a report to the [commission] Administrator containing such information as the [commission] Administrator may require, and shall thereafter make such supplemental reports as the [commission] Administrator may require.

* * * * *

SEC. 26. If any injury or death for which compensation is payable under this Act is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefor, the [commission] Administrator may require the beneficiary to assign to the United States any right of action he may have to enforce such liability of such other person or any right which he may have to share in any money or other property received in satisfaction of such liability of such other person, or the [commission] Administrator may require said beneficiary to prosecute said action in his own name.

If the beneficiary shall refuse to make such assignment or to prosecute said action in his own name when required by the [commission] Administrator, he shall not be entitled to any compensation under this Act.

The cause of action when assigned to the United States may be prosecuted or compromised by the [commission] Administrator, and if the [commission] Administrator realizes upon such cause of action [it] he shall apply the money or other properties so received in the following manner: After deducting the amount of any compensation already paid to the beneficiary and the expenses of

such realization or collection, which sum shall be placed to the credit of the employees' compensation fund, the surplus, if any, shall be paid to the beneficiary and credited upon any future payments of compensation payable to him on account of the same injury.

* * * * *

SEC. 28. [That a commission is hereby created, to be known as the United States Employees' Compensation Commission, and to be composed of three commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated by the President as chairman. No commissioner shall hold any other office or position under the United States. No more than two of said commissioners shall be members of the same political party. One of said commissioners shall be appointed for a term of two years, one for a term of four years, and one for a term of six years, and at the expiration of each of said terms, the commissioner then appointed shall be appointed for a period of six years. Each commissioner shall receive a salary of \$4,000 a year. The principal office of said commission shall be in Washington, District of Columbia, but the said commission is authorized to perform its work at any place deemed necessary by said commission, subject to the restrictions and limitations of this Act.] *This Act shall be administered by the Administrator.*

[SEC. 28a. Upon the organization of said commission and notification to the heads of all executive departments that the commission is ready to take up the work devolved it by this Act, all commissions and independent bureaus, by or in which payments for compensation are now provided, together with the adjustment and settlement of such claims, shall cease and determine, and such executive departments, commissions, and independent bureaus shall transfer all pending claims to said commission to be administered by it. The said commission may obtain, in all cases, in addition to the reports provided in section 24 such information and such reports from employees of the departments as may be agreed upon by the commission and the heads of the respective departments. All clerks and employees now exclusively engaged in carrying on said work in the various executive departments, commissions, and independent bureaus, shall be transferred to, and become employees of, the commission at their present grades and salaries.]

SEC. 29. That the *Administrator* [commission, or any commissioner by authority of the commission,] shall have power to issue subpoenas for and compel the attendance of witnesses within a radius of one hundred miles, to require the production of books, papers, documents, and other evidence, to administer oaths, and to examine witnesses, upon any matter within the jurisdiction of the [commission] *Administrator*.

SEC. 30. That the [commission] *Administrator* shall have such assistants, clerks, and other employees as may be from time to time provided by Congress. They shall be appointed from lists of eligibles to be supplied by the Civil Service Commission, and in accordance with the civil-service law.

SEC. 31. That the [commission] *Administrator* shall submit annually to the Secretary of the Treasury estimates of the appropriations necessary for the work of the [commission] *Administrator*.

SEC. 32. That the [commission] *Administrator* is authorized to make necessary rules and regulations for the enforcement of this Act, and shall decide all questions arising under this Act.

SEC. 33. That the [commission] *Administrator* shall make to Congress at the beginning of each regular session a report of [its] *his* work for the preceding fiscal year, including a detailed statement of appropriations and expenditures, a detailed statement showing receipts of and expenditures from the employees' compensation fund, and [its] *his* recommendations for legislation.

The provisions of section 41 of the Act of March 4, 1927 (c. 509, 44 Stat. 1424) as amended, shall, insofar as not inapplicable, apply in the same manner and to the same extent, as though such provisions were incorporated in this Act.

* * * * *

SEC. 35. That there is hereby authorized to be appropriated, from any money in the Treasury not otherwise appropriated, the sum of \$500,000, to be set aside as a separate fund in the Treasury, to be known as the employees' compensation fund. To this fund there shall be added such sums as Congress may from time to time appropriate for the purpose. Such fund, including all additions that may be made to it, is hereby authorized to be permanently appropriated for the payment of the compensation provided by this Act, including the medical, surgical, and hospital services and supplies provided by section 9, and the transportation and burial expenses provided by sections 9 and 11. The [com-

mission] *Administrator* shall submit annually to the Secretary of the Treasury estimates of the appropriations necessary for the maintenance of the fund.

SEC. 36. The [commission] *Administrator* upon consideration of the claim presented by the beneficiary, and the report furnished by the immediate superior and the completion of such investigation as [it] the *Administrator* may deem necessary, shall determine and make a finding of facts thereon and make an award for or against payment of the compensation provided for in this Act. Compensation when awarded shall be paid from the employees' compensation fund.

SEC. 37. That if the original claim for compensation has been made within the time specified in section 20, the [commission] *Administrator* may, at any time, on [its] his own motion or on application, review the award, and, in accordance with the facts found on such review, may end, diminish, or increase the compensation previously awarded, or, if compensation has been refused or discontinued, award compensation. In the absence of fraud or mistake in mathematical calculations, the finding of facts in, and the decision of the [commission] *Administrator* upon, the merits of any claim presented under or authorized by this Act, if supported by competent evidence, shall not be subject to review by any other administrative or accounting officer, employee, or agent of the United States. Any award heretofore made by the Compensation Commission, under the Act of September 7, 1916, for disability or death resulting from a personal injury sustained prior to the passage of this Act, shall be valid, if such award would be valid if made in respect to an injury sustained after the passage of this Act.

[SEC. 38. That if any compensation is paid under a mistake of law or of fact, the commission shall immediately cancel any award under which such compensation has been paid and shall recover, as far as practicable, any amount which has been so paid. Any amount to recovered shall be placed to the credit of the employees' compensation fund.]

SEC. 38. (a) *Subject to the provisions of sections 36 and 37, whenever by reason of an error of fact or law an overpayment has been made to an individual under this Act, proper adjustments shall be made, under regulations prescribed by the Administrator, by decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by decreasing subsequent benefits, if any, payable under this Act with respect to such individual's death.*

(b) *There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault and where adjustment or recovery would defeat the purpose of this Act or would be against equity and good conscience.*

(c) *No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized.*

SEC. 39. That whoever makes, in any affidavit or report required under section 4 or in any claim for compensation, any statement, knowing it to be false, shall be guilty of perjury and shall be punished by a fine of not more than \$2,000, or by imprisonment for not more than one year, or by both such fine and imprisonment

SEC. 40. That wherever used in this Act—

(a) The singular includes the plural and the masculine includes the feminine.

(b) The term "employee" includes (1) all civil officers and employees of all branches of the Government of the United States [and of the Panama Railroad Company,] (including Members of Congress and officers and employees of instrumentalities of the United States wholly owned by the United States) [,]; (2) commissioned officers of the Regular Corps of the Public Health Service [,]; (3) officers in the Reserve of the Public Health Service on active duty [,]; (4) persons rendering personal services of a kind similar to those of civilian officers or employees of the United States or to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it), without compensation or for nominal compensation, in any case in which acceptance or use of such services is authorized by an Act of Congress or in which provision is made by law for payment of the travel or other expenses of such person; and (5) [all] persons, other than independent contractors and their employees, employed on the Menominee Indian Reservation in the State of Wisconsin, subsequent to September 7, 1916, in operations conducted pursuant to the Act entitled "An Act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin",

approved March 28, 1908, as amended, or any other Act relating to tribal timber and logging operations on the Menominee Reservation.

(c) The term "commission" shall be taken to refer to the *former* United States Employees' Compensation Commission [provided for in section 28].

(d) The term "physician" includes surgeons and osteopathic practitioners within the scope of their practice as defined by State law.

(e) The term "medical, surgical, and hospital services and supplies" includes services and supplies by osteopathic practitioners and hospitals within the scope of their practice as defined by State law.

(f) The term "monthly pay" shall be taken to refer to the monthly pay at the time of the injury *except when otherwise determined under section 6 (d) with respect to any period*.

(g) The term "injury" includes, in addition to injury by accident, any disease proximately caused by the employment.

(h) The term "compensation" includes the money allowance payable to an employee or his dependents and any other benefits paid for out of the compensation fund: *Provided, however*, That this shall not in any way reduce the amount of the monthly compensation payable in case of disability or death.

(i) The term "Administrator" means the Federal Security Administrator.

* * * * *

SEC. 42. That the President may, from time to time, transfer the administration of this Act so far as employees of the Panama Canal and of the Panama Railroad Company are concerned to the Governor of the Panama Canal and so far as employees of the Alaska Railroad are concerned to the general manager of the Alaska Railroad, in which cases the words ["Commission" and "its"] "*Administrator*" wherever they appear in this Act shall, so far as necessary to give effect to such transfer, be read, "Governor of the Panama Canal" or "the general manager of the Alaska Railroad," as the case may be, [and "his"]; and the expenses of medical examinations under sections 21 and 22, and the reasonable traveling and other expenses and loss of wages payable to employees under section 21, shall be paid out of appropriations for the Panama Canal or for the Alaska Railroad or out of funds of the Panama Railroad, as the case may be, instead of out of appropriations for the work of the [Commission] *Administrator*.

In the case of compensation to employees of the Panama Canal or of the Panama Railroad Company for temporary disability, either total or partial, the President may authorize the Governor of the Panama Canal to waive, at his discretion, the making of the claim required by section 18. In the case of alien employees of the Panama Canal or of the Panama Railroad Company, or of any class or classes of them, the President may remove or modify the minimum limit established by section 6 on the monthly compensation for disability and the minimum limit established by clause (K) of section 10 on the monthly pay on which death compensation is to be computed. The President may authorize the Governor of the Panama Canal and the general manager of the Alaska Railroad to pay the compensation provided by this act, including the medical, surgical, and hospital services and supplies provided by section 9 and the transportation and burial expenses provided by sections 9 and 11, out of the appropriation for the Panama Canal and for the Alaska Railroad, such appropriations to be reimbursed for such payments by the transfer of funds from the employees' compensation fund.

The transfer by the President of the administration of this Act so far as the employees of the Alaska Railroad are concerned to the general manager of the Alaska Railroad shall not divest the [United States Employees' Compensation Commission] *Administrator* of jurisdiction hereunder, and any claimant shall have the right of appeal from the decision of the general manager of the Alaska Railroad to the [United States Employees' Compensation Commission] *Administrator*, and the [Commission] *Administrator* shall, upon such appeal, and may at any time, on [its] *his* own motion, review the decision of the general manager of the Alaska Railroad, and in accordance with the facts found on such review may proceed as provided in section 37 hereof. The [United States Employees' Compensation Commission] *Administrator* shall provide the form and manner of taking such appeals.

The minimum limit on the monthly compensation for disability as established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as established by clause (K) of section 10, shall not apply in the case of employees of the United States who are not citizens of the United States, or of any class or classes of such noncitizen employees, who sustain

injury outside of the United States: *Provided*, That the [commission] *Administrator* may in [its] *his* discretion establish a minimum monthly pay on which death compensation shall be computed in the case of any class or classes of such noncitizen employees. The [commission] *Administrator* is further authorized, in [its] *his* discretion, to arrange and provide for the making of initial payments of compensation and the initial furnishing of other benefits provided in this Act in the cases of employees injured outside of the United States, by any officer or agent of the United States designated by the [commission] *Administrator* for such purpose in the locality in which the employee was employed or the injury occurred. The provisions of this paragraph shall apply also in the cases of citizens of Puerto Rico, except those citizens of the United States who by residence have acquired or shall acquire citizenship in Puerto Rico under the provisions of section 733 (a) of title 48, United States Code.

Whenever the [commission] *Administrator* shall find that the amount of compensation, as provided by other provisions of this Act, payable to employees of the United States who are neither citizens nor residents of the United States, any Territory, or Canada, or payable to any dependents of such employees, is substantially disproportionate to compensation for disability or death which may be payable in similar cases under local law, regulation, custom, or otherwise, at the place outside the United States, any Territory, or Canada, where such employees may be working at the time of injury, the [commission] *Administrator* may provide for payment of compensation upon such basis as will be reasonably in accord with prevailing local payments in similar cases, (1) by the adoption or adaptation of the substantive features (by a schedule or otherwise) of local workmen's compensation provisions, or other local law, regulation or custom applicable in cases of personal injury or death, or (2) by establishing and promulgating, for specific classes of employees, areas or places, special schedules of compensation for injury and death (including schedules for the loss or loss of use of members and functions of the body); and irrespective of the basis adopted may at any time modify or limit therein (a) the maximum monthly and total aggregate payments for injury and death (including modification and limitation of medical or other benefits), and (b) the percentages of the employee's wage payable as compensation for such injury or death, and to modify, limit, or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives, or groups, who would be entitled under local law or customs to payment on account of death, whether or not included in the classes of beneficiaries otherwise specified in this Act. In the cases of such noncitizens and nonresidents, the [commission] *Administrator* or [its] *his* designees are authorized to make lump-sum awards (in the manner prescribed by section 14 of this Act), whenever the [commission] *Administrator* or [its] *his* authorized designee shall deem such settlement to be for the best interest of the United States, and also in any such cases to compromise and pay claims for any benefits so provided for, including claims in which there is a dispute as to jurisdiction or other facts, or questions of law. Compensation so payable shall be in lieu of all other compensation from the United States for the same injury or death, and any payment so made shall for all purposes be considered as compensation under this Act and as satisfaction of all liability of the United States in respect to the particular injury or death. The [commission] *Administrator* may delegate to any officer, agency, or employee of the United States, with such limitations and right of review as [it] *he* deems advisable, authority to process, adjudicate, commute by lump-sum award, compromise, and pay any claim or class of claims for compensation, and to provide other benefits, locally, under this paragraph, in accordance with such regulations and instructions as the [commission] *Administrator* shall deem necessary, and for such purpose the [commission] *Administrator* is authorized to provide or transfer funds (including reimbursement of amounts paid under this Act.) Should the [commission] *Administrator* find (1) that conditions prevent the establishment of facilities for processing and adjudicating claims of such noncitizens and nonresidents, or (2) that such noncitizens and nonresidents are alien enemies, the [commission] *Administrator* may waive the application of this Act, in whole or in part, and for such period or periods of time as the [commission] *Administrator* shall fix. The provisions of this paragraph may be applied retrospectively as the [commission] *Administrator* may determine and, where necessary, with such adjustment of compensation and benefits as the [commission] *Administrator* may find to be proper. The action of the [commission] *Administrator* or [its] *his* designees in allowing or denying any payment under this Act shall be final and conclusive for all purposes and with respect to all questions of law and fact, and not sub-

ject to review by any other official of the United States or by any court by mandamus or otherwise and credit shall be allowed in the accounts of any certifying or disbursing officer for payments in accordance with such action. Wherever used in this section, the geographical reference to the United States shall mean the continental United States.

SEC. 43. *This Act may be cited as the "Federal Employees' Compensation Act".*

SECTION 1 OF ACT OF FEBRUARY 15, 1934 (48 STAT. 351)

* * * *Provided further*, That the provisions of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916 (U. S. C., title 5, sec. 785), as amended, are hereby extended, so far as they may be applicable, to employees of the Federal Civil Works Administration only for disability or death resulting from traumatic injury while in the performance of duty, subject, however, to the following conditions and limitations:

(a) that the [total] aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of [\$3,500] \$4,000 and that the monthly monetary compensation shall not in any event exceed [the rate of \$25] \$100, both exclusive of medical costs;

(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed [, established] as provided by [clause (K) of] section 10 (K) of such Act, [shall not apply] the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$75 and compensation shall be payable on the basis of such pay regardless of the actual pay at the time of injury or death, except that the Federal Security Administrator may from time to time, by regulation, fix a lower minimum monthly pay as a basis for computing such compensation as to any class of individuals, specified in the fourth paragraph of section 42 of such Act, as amended, who sustained injury or were killed outside the continental United States;

(c) that the [United States Employees' Compensation Commission, with the approval of the President] Federal Security Administrator may [shall] from time to time, subject to the above limitations, establish a special schedule of compensation for disability and for death [and/or] (including a special schedule of compensation for the loss, or loss of use, of members or functions of the body), and [which] compensation under such schedule shall be in lieu of all other compensation in such cases; * * *

EMERGENCY RELIEF APPROPRIATION ACT OF 1937 (50 STAT. 352)

SEC. 8. The provisions of the Act of February 15, 1934 (48 Stat. 351), relating to disability or death compensation and benefits shall apply to persons (except administrative employees qualifying as civil employees of the United States) receiving compensation from the foregoing appropriation for services rendered as employees of the United States and to persons receiving assistance in the form of payments from the United States for services rendered under the National Youth Administration created by Executive order of June 26, 1935: [Provided, That hereafter the monthly compensation in any individual case heretofore or hereafter coming within the purview of said Act of February 15, 1934, shall not exceed the rate of \$30, exclusive of medical costs:] * * *

EMERGENCY RELIEF APPROPRIATION ACT OF 1938 (52 STAT. 809)

SEC. 16. The provisions of the Act of February 15, 1934 (48 Stat. 351), as amended, relating to disability or death compensation and benefits shall apply to persons (except administrative employees qualifying as civil employees of the United States) receiving compensation from the appropriations in this title for services rendered as employees of the United States and to persons receiving assistance in the form of payments from the United States for services rendered under the National Youth Administration created by Executive order of June 26, 1935: [Provided, That effective July 1, 1938, the monthly compensation in any individual case heretofore or hereafter coming within the purview of such Act of February 15, 1934, shall not exceed the rate of \$50, and the aggregate payments shall not exceed \$4,000, exclusive of medical costs] * * *

ACT OF JULY 25, 1947 (61 STAT. 449, 451)

SEC. 2. Notwithstanding the termination date or termination period heretofore provided therefor by law, the following statutory provisions are repealed effective upon the date hereinafter specified, or upon the expiration of the period hereinafter specified, and shall remain in full force and effect until such date or until the expiration of such period. Such statutory provisions are hereby amended accordingly:

a. Repeal effective July 1, 1948:

* * * * *

Act of July 1, 1943 (57 Stat. 371), and the Act of May 14, 1942 (56 Stat. 278), as amended [;]: *Provided, That section 11 of such Act of May 14, 1942, shall remain in effect to the extent specified in section 5 of such Act of July 1, 1943;*
* * *



Union Calendar No. 286

81ST CONGRESS
1ST SESSION

H. R. 3191

[Report No. 729]

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 1949

Mr. LESINSKI introduced the following bill; which was referred to the Committee on Education and Labor

JUNE 6, 1949

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That this Act may be cited as the "Federal Employees' Com-
- 4 pensation Act Amendments of 1949".

TITLE I—SUBSTANTIVE AMENDMENTS

WAITING PERIOD MODIFIED

SEC. 101. (a) Section 2 of the Act approved September 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act referred to as the “Federal Employees’ Compensation Act”), as amended (5 U. S. C., 1946 edition, sec. 752), is hereby amended to read as follows:

“SEC. 2. That with respect to the first three days of temporary disability the employee shall not be entitled to compensation except as provided in section 9, unless such disability exceeds twenty-one days in duration or is followed by permanent disability.”

(b) Section 8 of such Act (5 U. S. C., 1946 edition, section 758), is amended to read as follows:

“SEC. 8. If at the time the disability begins the employee has annual or sick leave to his credit he may use such leave until it is exhausted, in which case his compensation for disability shall not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased.”

BASIC BENEFIT FOR TOTAL DISABILITY

SEC. 102. Section 3 of the Federal Employees’ Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 753), is hereby amended to read as follows:

“SEC. 3. (a) Except as otherwise provided in this

1 Act, if the disability is total the United States shall pay to
2 the disabled employee during such disability a monthly
3 monetary compensation equal to $66\frac{2}{3}$ per centum of his
4 monthly pay, which shall be known as his basic compensation
5 for total disability.

6 “(b) Loss, or loss of use, of both hands, or both arms,
7 or both feet, or both legs, or both eyes or the sight thereof,
8 or of any two thereof shall, prima facie, constitute permanent
9 total disability.”

10 BASIC BENEFIT FOR PARTIAL DISABILITY

11 SEC. 103. (a) Section 4 of the Federal Employees’
12 Compensation Act, as amended (5 U. S. C., 1946 edition,
13 sec. 754), is further amended to read as follows:

14 “SEC. 4. (a) (1) Except as otherwise provided in
15 this Act, if the disability is partial the United States shall
16 pay to the disabled employee during such disability a
17 monthly monetary compensation equal to $66\frac{2}{3}$ per centum
18 of the difference between his monthly pay and his monthly
19 wage-earning capacity after the beginning of such partial
20 disability, which shall be known as his basic compensation
21 for partial disability.

22 “(2) The Administrator may require a partially dis-
23 abled employee to make an affidavit or other report, in such
24 manner and at such times as the Administrator may specify
25 as to his earnings, whether from employment or self-em-

1 ployment. In such affidavit or other report the employee
2 shall include, ~~when required~~, the value of housing, board,
3 lodging, and other advantages which are part of his re-
4 muneration for employment or are earnings in self-employ-
5 ment and which can be estimated in money. If such indi-
6 vidual, when required, fails to make such affidavit or other
7 report, or if in such affidavit or report the employee know-
8 ingly omits or understates any part of such earnings or
9 remuneration, he shall forfeit his right to compensation
10 with respect to any period for which such report was re-
11 quired to be made, and such compensation, if already paid,
12 shall be recovered by deducting the amount thereof from
13 the compensation payable to him or otherwise recovered in
14 accordance with section 38, unless such recovery is waived
15 pursuant to such section.

16 “(b) If a partially disabled employee refuses to seek
17 suitable work or refuses or neglects to work after suitable
18 work is offered to, procured by, or secured for him, he shall
19 not be entitled to any compensation.”

20 (b) Section 39 of such Act (5 U. S. C., 1946 edition,
21 sec. 789), is amended by inserting, after “affidavit” the
22 words “or report”.

23 SCHEDULED DISABILITIES

24 SEC. 104. Section 5 of the Federal Employees’ Com-

1 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
2 755), is amended to read as follows:

3 “SEC. 5. (a) In any case of permanent disability which
4 involves solely the loss, or loss of use, of a member or func-
5 tion of the body, or disfigurement, as provided in the follow-
6 ing schedule, basic compensation for such disability shall, in
7 addition to compensation for any temporary total or tem-
8 porary partial disability, be payable to the disabled em-
9 ployee for the period specified in such schedule at the rate
10 of $66\frac{2}{3}$ per centum of his monthly pay and shall, except as
11 otherwise provided in subsection (b), be in lieu of compen-
12 sation for such permanent disability under the preceding
13 sections of this Act:

14 “(1) Arm lost, three hundred and twelve weeks’
15 compensation.

16 “(2) Leg lost, two hundred and eighty-eight
17 weeks’ compensation.

18 “(3) Hand lost, two hundred and forty-four weeks’
19 compensation.

20 “(4) Foot lost, two hundred and five weeks’
21 compensation.

22 “(5) Eye lost, one hundred and sixty weeks’ com-
23 pensation.

1 “(6) Thumb lost, seventy-five weeks’ compensa-
2 tion.

3 “(7) First finger lost, forty-six weeks’ compen-
4 sation.

5 “(8) Great toe lost, thirty-eight weeks’ compen-
6 sation.

7 “(9) Second finger lost, thirty weeks’ compensa-
8 tion.

9 “(10) Third finger lost, twenty-five weeks’ com-
10 pensation.

11 “(11) Toe other than great toe lost, sixteen weeks’
12 compensation.

13 “(12) Fourth finger lost, fifteen weeks’ compen-
14 sation.

15 “(13) Loss of hearing: (A) Complete loss of
16 hearing of one ear, fifty-two weeks’ compensation; (B)
17 complete loss of hearing of both ears, two hundred
18 weeks’ compensation.

19 “(14) Binocular vision or percentage of vision:
20 Compensation for loss of binocular vision or for 80
21 per centum or more of the vision of an eye shall be the
22 same as for the loss of the eye.

23 “(15) Phalanges: Compensation for loss of more
24 than one phalanx of a digit shall be the same as for
25 loss of the entire digit. Compensation for loss of the

1 first phalanx shall be one-half of the compensation for
2 loss of the entire digit.

3 “(16) Amputated arm or leg: If, in the case of an
4 arm or a leg, the member is amputated above the wrist
5 or ankle, compensation shall be the same as for the
6 loss of the arm or leg, respectively.

7 “(17) Two or more digits: Compensation for loss,
8 or loss of use, of two or more digits, or one or more
9 phalanges of each of two or more digits, of a hand or
10 foot, shall be proportioned to the loss of use of the hand
11 or foot occasioned thereby.

12 “(18) Total loss of use: Compensation for per-
13 manent total loss of use of a member shall be the same
14 as for loss of the member.

15 “(19) Partial loss or partial loss of use: Compensa-
16 tion for permanent partial loss or loss of use of a member
17 may be for proportionate loss or loss of use of the mem-
18 ber. The degree of loss of vision or hearing under this
19 schedule shall be determined without regard to cor-
20 rection.

21 “(20) In any case in which there shall be a loss
22 or loss of use, of more than one member or parts of more
23 than one member as enumerated herein, the award of
24 compensation shall be for the loss, or loss of use, of each
25 such member or part thereof, which awards shall run

consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.

“(21) Disfigurement: Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

“(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision), or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual's basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be $66\frac{2}{3}$ per centum of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is

1 total or as provided in subsection (a) of section 4 if the
2 disability is partial.

3 “(c) The period of compensation payable under the
4 schedule to subsection (a) of this section on account of any
5 injury shall be reduced by the period of compensation paid
6 or payable under such schedule on account of a prior injury
7 if compensation in both cases is for disability of the same
8 member or function, or different parts of the same member
9 or function, or for disfigurement, and the Administrator
10 finds that compensation payable on account of the subse-
11 quent disability in whole or in part would duplicate the
12 compensation payable on account of the preexisting dis-
13 ability. In such cases, for the purposes of disabilities speci-
14 fied in subsection (b), compensation for disability continuing
15 after the scheduled period shall commence upon expiration
16 of such period as reduced under this subsection.

17 “(d) (1) If an individual who has sustained disability
18 compensable under subsection (a) (including any disability
19 compensable under the schedule to subsection (a) by virtue
20 of subsection (b)), and who has filed a valid claim in his
21 lifetime, dies, from causes other than the injury, before the
22 expiration of the compensable period specified in such
23 schedule, the compensation specified in such schedule and
24 unpaid at the individual's death, whether or not accrued or

1 due at his death, shall be paid, under an award made before
2 or after such death, for the period specified in such schedule,
3 to and for the benefit of the persons then in being within
4 the classes and in the proportions and upon the conditions
5 specified in this subsection and in the order named:

6 “(A) to the widow (as defined in section 10 (H))
7 or wholly dependent widower (as specified in section
8 10 (B)), if there is no child (as so defined) under
9 the age of eighteen or incapable of self-support; or

10 “(B) if there are both such a widow or widower
11 and such a child or children, one-half to such widow or
12 widower and the other half to such child or children; or

13 “(C) if there is no such widow or widower but
14 such a child or children, then to such child or children;
15 or

16 “(D) if there is no survivor in the above classes,
17 then to the parent or parents wholly or partly dependent
18 for support upon the decedent, or to other wholly or
19 partly dependent relatives listed in section 10 (F), or
20 to both, in such proportions as may be provided by
21 regulation; or

22 “(E) if there is no survivor in any of the above
23 classes, and no burial allowance is payable under section
24 11, then such amount, not exceeding the amount which
25 would be expendable under section 11 if such section

were applicable, shall be paid to reimburse any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

“(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual’s death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent ~~partial~~ disability specified in subsection ~~(b)~~ (a) of *this section*, even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

“(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

“(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate

1 the right of such beneficiary to compensation for death under
 2 section 10. Upon the cessation of the entitlement of any
 3 beneficiary under such clauses (A) to (D), the compensa-
 4 tion remaining unpaid under paragraph (1) which would
 5 have been payable to him had such entitlement continued
 6 shall be payable to the surviving beneficiary or beneficiaries,
 7 if any, within the same class or, if there are none, then to
 8 the beneficiary or beneficiaries next entitled to priority under
 9 such paragraph."

10 ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM
 11 BENEFIT AMOUNT—DEPENDENTS' BENEFITS, AND SO
 12 FORTH

13 SEC. 105. ~~(a)~~ Section 6 of the Federal Employees'
 14 Compensation Act, as amended (5 U. S. C., 1946 edition,
 15 sec. 756), is further amended to read as follows:

16 "SEC. 6. (a) (1) While the disabled employee has
 17 one or more dependents, his basic compensation for dis-
 18 ability payable under section 3 or section 5 (a) (including
 19 compensation payable under the schedule to section 5 (a)
 20 by virtue of section 5 (b)) shall be augmented at the rate
 21 of $8\frac{1}{3}$ per centum of his monthly pay, and his basic com-
 22 pensation for disability payable under section 4 (a) shall be
 23 augmented at the rate of $8\frac{1}{3}$ per centum of the difference
 24 between his monthly pay and his monthly wage-earning
 25 capacity.

1 “(2) As used in this subsection, the term ‘dependent’
2 shall mean any of the following:

3 “(A) A wife, if (i) she is a member of the same
4 household as the employee or is receiving regular con-
5 tributions from him toward her support, or (ii) he has
6 been ordered by any court to contribute to her support.

7 “(B) A husband, if wholly dependent by reason of
8 his own physical or mental disability upon the employee
9 for support.

10 “(C) An unmarried child (as defined in section
11 10 (H)), while such child (i) is under eighteen years
12 of age or, if over eighteen, is incapable of self-support
13 by reason of mental or physical disability, and (ii) is
14 living with the employee or receiving regular contribu-
15 tions toward his support from the employee.

16 “(D) A parent (as defined in section 10 (H)),
17 while wholly dependent upon and supported by the
18 employee.

19 “(b) (1) In addition to the monthly compensation
20 otherwise specified in this Act, the Administrator may pay
21 an injured employee, who has been awarded compensation
22 for permanent total disability from injury, an additional sum
23 of not more than \$75 a month, as the Administrator may
24 deem necessary, when the Administrator shall find that the
25 service of an attendant is necessary constantly to be used by

1 reason of the employee's being ~~total~~ *totally* blind, or hav-
2 ing lost both hands or both feet or the use thereof, or
3 being paralyzed and unable to walk, or by reason of other
4 ~~total~~ disability *resulting from the injury* actually rendering
5 him so helpless as to require constant attendance.

6 “(2) The Administrator may pay to any disabled in-
7 dividual who is undergoing vocational rehabilitation pursuant
8 to the Administrator's direction under section 9 (b) addi-
9 tional compensation necessary for his maintenance, but not
10 to exceed \$50 per month.

11 “(c) Except as otherwise authorized under section 42,
12 the monthly rate of compensation for total disability, includ-
13 ing any augmented compensation payable by reason of sub-
14 section (a) but not including any sum payable by reason
15 of subsection (b), shall not be less than \$112.50 per month,
16 unless the employee's monthly pay is less in which case his
17 monthly rate of compensation shall be equal to his full
18 monthly pay.

19 “(d) (1) In the case of any person who at the time
20 of the injury was a minor or employed in a learner's capacity
21 and who, prior to the injury, was not physically or mentally
22 handicapped, the Administrator shall, on any review under
23 section 37 after the time when the wage-earning capacity
24 of such person would probably, but for the injury, have in-
25 creased, prospectively recompute the monetary compensation

1 payable for disability on the basis of an assumed monthly
2 pay corresponding to such probable increased wage-earning
3 capacity. The Administrator may, on any review under
4 section 37 after a disabled employee has attained the age
5 of seventy years and the wage-earning capacity of the dis-
6 abled employee would probably, aside from and inde-
7 pendently of the effects of the injury, have decreased on
8 account of old age, prospectively recompute the monetary
9 compensation payable for disability on the basis of an as-
10 sumed monthly pay corresponding to such probable decreased
11 wage-earning capacity.

12 “(2) If a disabled individual, without good cause, fails
13 to apply for and undergo vocational rehabilitation when so
14 directed pursuant to section 9 (b), and the Administrator,
15 upon review under section 37, finds that in the absence of
16 such failure the individual's wage-earning capacity would
17 probably have substantially increased, the Administrator may
18 prospectively reduce the individual's monetary compensa-
19 tion in accordance with what would probably have been
20 his wage-earning capacity in the absence of such failure,
21 until the individual in good faith complies with the Admin-
22 istrator's direction.”

23 INCREASE IN DEATH BENEFITS, AND SO FORTH

24 SEC. 106. (a) Section 10 of the Federal Employees'
25 Compensation Act, as amended (5 U. S. C., 1946 edition,

1 sec. 760), is further amended by striking out “66 $\frac{2}{3}$ ” where-
2 ever it occurs and inserting in lieu thereof “75”; by striking
3 out “35” in clauses (A) and (B) and inserting in lieu
4 thereof “45”; by striking out in clause (C) the words
5 “the compensation payable under clause (A) or clause
6 (B)” and inserting in lieu thereof “40 per centum”; by
7 striking out “10” in clauses (C) and (D) and inserting
8 in lieu thereof “15”; and by striking out “25” in clause
9 (D) and inserting in lieu thereof “35”.

10 (b) Clause (K) of such section, as amended, is further
11 amended to read as follows:

12 “(K) In computing compensation under this sec-
13 tion the monthly pay shall be considered not to be less
14 than \$150, but the total monthly compensation shall
15 not exceed the monthly pay computed as provided in
16 section 12.”

17 (c) Clause (B) of such section, as so amended, is
18 further amended to read as follows:

19 “(B) To the widower, if there is no child, 45
20 per centum if wholly dependent for support, by reason
21 of his physical or mental disability, upon the deceased
22 employee at the time of her death. This compensation
23 shall be paid until his death or marriage or until he
24 becomes capable of self-support.”

25 (d) Such section, as so amended, is further amended

1 by striking out the second sentence of clause (C), the last
2 sentence of clause (D), and the last sentence of clause (G).

3 (e) Clause (L) of such section, as so amended, is
4 amended to read as follows:

5 “(L) If any person entitled to compensation under
6 this section or section 5 or 6, whose compensation by
7 the terms of this or of such other section ceases or is
8 to be reduced upon his marriage or upon the marriage
9 of his dependent, accepts *after such marriage* any pay-
10 ments or compensation ~~after such marriage~~ *to which*
11 *he is not entitled*, he shall be punished by a fine of not
12 more than \$2,000 or by imprisonment for not more
13 than one year, or by both such fine and imprisonment.”

14 LIBERALIZATION OF BURIAL PAYMENTS

15 SEC. 107. Section 11 of the Federal Employees' Com-
16 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
17 761), is further amended to read as follows:

18 “SEC. 11. If death results from the injury the United
19 States shall pay, to the personal representative of the de-
20 ceased employee or otherwise, funeral and burial expenses
21 not to exceed \$400, in the discretion of the Administrator.
22 In the case of an employee whose home is within the United
23 States, if his death results from the injury while he is away
24 from his home or official station or is outside of the United

1 States, or if his death results from other causes while he is
2 away from his home or official station for the purpose of
3 receiving medical or other services, appliances, or supplies
4 under section 9 or examination under section 21, and if so
5 desired by his relatives, the body shall, in the discretion of
6 the Administrator, be embalmed and transported in a
7 hermetically sealed casket to the home or last place of resi-
8 dence of the employee at the expense of the employees'
9 compensation fund. If, in such cases, request for return of
10 the body is not made by the decedent's relatives, the Admin-
11 istrator may provide for the disposition of the remains and
12 incur, and cause payment from the employees' compensation
13 fund of, such necessary transportation, funeral, and burial
14 expenses as under the circumstances shall be reasonable."

15 EXTENSION OF COVERAGE, AND SO FORTH

16 SEC. 108. (a) Section 40 of the Federal Employees'
17 Compensation Act, as amended (5 U. S. C., 1946 edition,
18 sec. 790), is further amended, by designating the para-
19 graphs thereof, following the introductory phrase, as para-
20 graphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)",
21 and "(h)", respectively.

22 (b) Paragraph (b) of such section, as so designated,
23 defining the term "employee", is further amended to read
24 as follows:

25 "(b) The term 'employee' includes (1) all civil offi-

1 cers and employees of all branches of the Government of
2 the United States (including Members of Congress and
3 officers and employees of instrumentalities of the United
4 States wholly owned by the United States); (2) commis-
5 sioned officers of the Regular Corps of the Public Health
6 Service; (3) officers in the Reserve of the Public Health
7 Service on active duty; (4) persons rendering personal
8 services of a kind similar to those of civilian officers or
9 employees of the United States or to any department,
10 independent establishment, or agency thereof (including in-
11 strumentalities of the United States wholly owned by it),
12 without compensation or for nominal compensation, in any
13 case in which acceptance or use of such services is author-
14 ized by an Act of Congress or in which provision is made
15 by law for payment of the travel or other expenses of
16 such person; and (5) persons, other than independent con-
17 tractors and their employees, employed on the Menominee
18 Indian Reservation in the State of Wisconsin, subsequent
19 to September 7, 1916, in operations conducted pursuant
20 to the Act entitled 'An Act to authorize the cutting of
21 timber, the manufacture and sale of lumber, and the preser-
22 vation of the forests on the Menominee Indian Reservation
23 in the State of Wisconsin', approved March 28, 1908, as
24 amended, or any other Act relating to tribal timber and
25 logging operations on the Menominee Reservation."

1 (c) Paragraph (c) of such section, as so designated
 2 defining the term "commission", is further amended by
 3 inserting "former" after the words "to the" and by striking
 4 out the words "provided for in section 28".

5 (d) Paragraph (f) of such section, as so designated,
 6 defining the term "monthly pay", is further amended by
 7 inserting, immediately before the period, the following:
 8 "except when otherwise determined under section 6 (d)
 9 with respect to any period".

10 (e) Such section is further amended by adding thereto
 11 a new paragraph "(i)" reading as follows:

12 "(i) The term 'Administrator' means the Federal
 13 Security Administrator."

14 INCREASE OF COMPUTATION BASE WHERE INJURY

15 OCCURRED BEFORE JULY 1, 1946

16 SEC. 109. Notwithstanding any other provision of this
 17 Act or of the Federal Employees' Compensation Act, the
 18 monthly pay upon the basis of which compensation for dis-
 19 ability or death is computed under the Federal Employees'
 20 Compensation Act, is *as* amended, shall, effective on the
 21 first day of the first calendar month following enactment of
 22 this Act, be increased by 40 percentum if the injury (or injury
 23 causing death) occurred before January 1, 1941, or by 10
 24 per centum if the injury (or injury causing death) occurred
 25 on or after such date but before July 1, 1946, except that

such increase shall in neither event exceed \$50. This section shall apply to any case of death caused by such an injury, regardless of whether such death occurs or occurred before or after the enactment of this Act.

TITLE II—TECHNICAL AMENDMENTS

EXCLUSIVENESS OF REMEDY

SEC. 201. Section 7 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 757), is further amended by inserting the designation "(a)" immediately before the first sentence thereof and by adding to such section a new subsection reading as follows:

"(b) The remedy afforded to any person under this Act with respect to his own injury or the death of another individual shall, ~~unless otherwise specifically provided by law,~~ be the exclusive remedy against, and be in place of any other legal liability ~~of, of~~ the United States, *States* or any of its instrumentalities ~~wholly owned by it,~~ on account of such injury or death, where such liability is determinable by direct judicial proceedings ~~at law~~ *in a civil action or* in admiralty, or by proceedings, *whether administrative or judicial,* under any other workmen's compensation law or under any Federal tort liability statute."

SEC. 202. Section 9 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec.

1 759), is amended by inserting before the first sentence thereof
2 the designation “(a)” and by adding at the end of such
3 section a new subsection reading as follows:

4 “(b) The Administrator may direct any permanently
5 disabled individual whose disability is compensable under
6 this Act to undergo vocational rehabilitation and shall make
7 provision for furnishing vocational rehabilitation services in
8 such cases. In providing for such services, the Administra-
9 tor shall, insofar as practicable, utilize the services or facilities
10 of State agencies (or corresponding agencies in Territories
11 or possessions) cooperating with him in carrying out the
12 purposes of the Vocational Rehabilitation Act, as amended,
13 except to the extent that the Administrator provides for
14 furnishing such services under subsection (a) of this section.
15 The cost of providing such services to individuals under-
16 going vocational rehabilitation pursuant to such direction
17 shall be paid from the employees’ compensation fund, ex-
18 cept that in reimbursing any State agency (or correspond-
19 ing agency of a Territory or possession) under any arrange-
20 ment pursuant to this subsection there shall be excluded
21 any cost to such agency reimbursable in full under section 3
22 (a) (4) of the Vocational Rehabilitation Act, as amended.”

23 COMPUTATION OF PAY

24 SEC. 203. Section 12 of the Federal Employees’ Com-

1 pensation Act (5 U. S. C., 1946 edition, sec. 762) is
2 amended to read as follows:

3 “SEC. 12. (a) In computing monetary compensation
4 for disability or death upon the basis of monthly pay, such
5 pay shall be determined in accordance with the provisions
6 of this section.

7 “(b) The value of subsistence and quarters, and of any
8 other form of remuneration in kind for services if its value can
9 be estimated in money, shall be included as part of the pay.
10 Overtime pay, or additional pay or allowance authorized
11 outside the United States because of differential in cost of
12 living or other special circumstance, or bonus or premium
13 pay for extraordinary service (including amounts paid as
14 bonus for particularly hazardous service in time of war)
15 shall not be taken into account. The term ‘overtime pay’,
16 as used in this subsection, means pay for hours of service in
17 excess of those of a statutory or other basic workweek, or
18 other basic unit of work time, as observed by the establish-
19 ment in which the employee is employed.

20 “(c) (1) The monthly pay at the time of injury shall
21 be deemed to be one-twelfth of the employee’s average an-
22 nual earnings at that time, except that when compensation
23 is paid upon a weekly basis, the weekly equivalent of such
24 monthly pay shall be deemed to be one-fifty-second of such

1 average annual earnings: *Provided*, That, for so much of the
2 period of total disability as does not exceed ninety calendar
3 days from the date of the beginning of compensable disability,
4 the compensation may, in the discretion of the Administrator,
5 be computed on the basis of the employee's actual daily wage
6 at the time of injury and in that event he may be paid com-
7 pensation for such days as he would have worked but for the
8 injury.

9 “(2) Average annual earnings shall be determined as
10 follows:

11 “(A) If the employee worked in the employment
12 in which he was working at the time of his injury
13 during substantially the whole of the year immediately
14 preceding such injury, his average annual earnings
15 shall consist of the product obtained by multiplying
16 his daily wage for the particular employment, or the
17 average thereof if the daily wage has fluctuated, by
18 three hundred if he was employed on the basis of a
19 six-day workweek, two hundred and eighty if employed
20 on the basis of a five-and-one-half-day week, and two
21 hundred and sixty if employed on the basis of a five-
22 day week, except that if the employment was in a
23 position for which an annual rate of compensation was
24 fixed, such average annual earnings shall consist of such
25 annual rate of compensation.

1 “(B) If the injured employee did not work in
2 such employment during substantially the whole of
3 such year, but the position was such as would have
4 afforded employment for substantially a whole year,
5 then the average annual earnings of such employee
6 shall be equal to the average annual earnings of an
7 employee of the same class working substantially the
8 whole of such immediately preceding year in the same
9 or similar employment by the United States in the same
10 or neighboring place, as determined in accordance with
11 clause (A).

12 “(C) If either of the foregoing methods of deter-
13 mining the average annual earnings of an injured em-
14 ployee cannot reasonably and fairly be applied, such
15 average annual earnings shall be such sum as, having
16 regard to the previous earnings of the injured employee
17 in Federal employment, and of other employees of the
18 United States in the same or most similar class working
19 in the same or most similar employment in the same or
20 neighboring locality, or to other previous employment
21 of such employee, or to any other relevant factors, shall
22 reasonably represent the annual earning capacity of the
23 injured employee in the employment in which he was
24 working at the time of the injury: *Provided*, That his
25 average annual earnings shall consist of not less than

1 one hundred and fifty times the average daily wage
2 which he shall have earned in such employment during
3 the days when so employed within the period of one
4 year immediately preceding his injury.

5 “(D) Such rules shall, so far as practicable, be
6 also applied in the case of an employee serving without
7 pay or at nominal pay: *Provided*, That (i) the average
8 annual earnings of such employee shall in no event
9 exceed the basic rate of annual compensation specified
10 under the Classification Act of 1923, as amended, for
11 positions in grade CAF-15 or P-8 at the bottom of
12 such grade, and (ii) if his average annual earnings
13 cannot reasonably and fairly be determined in the
14 manner otherwise provided in this section, such aver-
15 age annual earnings shall be determined at the reason-
16 able value of the service rendered but not in excess
17 of \$3,600 per annum.

18 “(d) As used in this section the term ‘year’ means a
19 period of twelve calendar months, or the equivalent thereof
20 as specified in regulations issued by the Administrator.”

21 COMPUTATION OF WAGE-EARNING CAPACITY

22 SEC. 204. Section 13 of the Federal Employees’ Com-
23 pensation Act (5 U. S. C., 1946 edition, sec. 763), is
24 amended to read as follows:

25 “SEC. 13. (a) In the determination of an employee’s

1 wage-earning capacity after the beginning of partial disa-
2 bility, the rules specified in section 12 (b) shall apply.

3 “(b) The wage-earning capacity of an injured em-
4 ployee, in determining compensation for partial disability
5 other than permanent partial disability compensable under
6 section 5 ~~(a)~~, shall be determined by his actual earnings
7 if such actual earnings fairly and reasonably represent his
8 wage-earning capacity: *Provided, however,* That if the
9 employee has no actual earnings, or his actual earnings do
10 not fairly and reasonably represent his wage-earning capac-
11 ity, such wage-earning capacity as shall appear reasonable
12 under the circumstances of the case shall be determined,
13 having due regard to the nature of his injury, the degree of
14 physical impairment, his usual employment, and any other
15 factors or circumstances in the case which may affect his
16 capacity to earn wages in his disabled condition.”

17 ADMINISTRATOR SUBSTITUTED FOR COMMISSION

18 SEC. 205. (a) Section 28 of the Federal Employees’
19 Compensation Act, as amended, is amended to read as
20 follows:

21 “SEC. 28. This Act shall be administered by the
22 Administrator. *The Administrator is authorized to delegate*
23 *to any officer or employee of the Federal Security Agency*
24 *any of the powers conferred upon him by this Act.”*

(b) ~~Section~~ *The first and third sentences of section*
28a of such Act ~~is~~ *are* repealed, but such repeal shall not
be construed to revive any independent bureau or other
agency abolished by such section.

(c) (1) The word "commission" (or other designation of the commission), and the word "it" or "its" whenever they refer to the commission, in any part of such Act, are struck out wherever necessary in order to give effect to subsection (a) of this section, and the words "Administrator" and "he" or "his", respectively, are inserted in lieu thereof.

(2) In addition, the phrase “, or any commissioner by authority of the commission,” in section 29 of such Act is struck out.

OVERPAYMENTS

16 SEC. 206. Section 38 of the Federal Employees' Com-
17 pensation Act (5 U. S. C., 1946 edition, sec. 788), is
18 amended to read as follows:

19 “SEC. 38. (a) Subject to the provisions of sections 36
20 and 37, whenever by reason of an error of fact or law an
21 overpayment has been made to an individual under this
22 Act, proper adjustments shall be made, under regulations
23 prescribed by the Administrator, by decreasing subsequent
24 payments to which such individual is entitled. If such
25 individual dies before such adjustment has been completed,

1 adjustment shall be made by decreasing subsequent benefits,
 2 if any, payable under this Act with respect to such individ-
 3 ual's death.

4 “(b) There shall be no adjustment or recovery by the
 5 United States in any case where incorrect payment has been
 6 made to an individual who is without fault and where ad-
 7 justment or recovery would defeat the purpose of this Act
 8 or would be against equity and good conscience.

9 “(c) No certifying or disbursing officer shall be held
 10 liable for any amount certified or paid by him to any person
 11 where the adjustment or recovery of such amount is waived
 12 under subsection (b), or where adjustment under subsection
 13 (a) is not completed prior to the death of all persons
 14 against whose benefits deductions are authorized.”

15 SHORT TITLE

16 SEC. 207. The Federal Employees' Compensation Act,
 17 as amended, is further amended by adding thereto at the
 18 end thereof a new section as follows:

19 “SEC. 43. This Act may be cited as the ‘Federal Em-
 20 ployees' Compensation Act’.”

21 FEES

22 *SEC. 208. Section 23 of such Act, as amended, is further*
 23 *amended to read as follows:*

24 “SEC. 23. (a) *Fees or examinations made on the part*
 25 *of the United States under sections 21 and 22 by physicians*

1 *who are not officers or employees of the United States and*
2 *not under contract to the United States to render medical*
3 *services to its employees shall be fixed by the Administrator.*
4 *Such fees, and any sum payable to the employee under*
5 *section 21, which authorized or approved by the Adminis-*
6 *trator, shall be paid from the Employees' Compensation*
7 *Fund.*

8 “(b) *A claimant may be represented before the Admin-*
9 *istrator in any proceeding under this Act by any person*
10 *duly authorized by such claimant. No claim for legal services*
11 *or for any other services rendered in respect of a case, claim,*
12 *or award for compensation under this Act, to or on account*
13 *of any person, shall be valid unless approved by the Admin-*
14 *istrator. Any person who receives any fee or other considera-*
15 *tion, or any gratuity on account of services so rendered, unless*
16 *such fee, consideration, or gratuity, is so approved, or who*
17 *solicits employment for himself or another in respect of any*
18 *case, claim, or award for compensation under (or to be*
19 *brought under) this Act shall be guilty of a misdemeanor and*
20 *upon conviction thereof shall, for each offense, be punished*
21 *by a fine of not more than \$1,000 or by imprisonment not to*
22 *exceed one year, or by both such fine and imprisonment.*

23 “(c) *If any person in proceedings before the Adminis-*
24 *trator or his duly authorized representative disobeys or resists*

1 *any lawful order or process, or misbehaves during a hearing*
2 *or so near the place thereof as to obstruct the same, the*
3 *Administrator or his duly authorized representative shall cer-*
4 *tify the facts to the district court having jurisdiction in the*
5 *place in which he is sitting (or to the district court of the*
6 *United States for the District of Columbia if he is sitting in*
7 *such district) which shall thereupon in a summary manner*
8 *hear the evidence as to the acts complained of, and, if the evi-*
9 *dence so warrants, punish such person in the same manner and*
10 *to the same extent as for a contempt committed before the*
11 *court, or commit such person upon the same conditions as if*
12 *the doing of the forbidden act had occurred with reference*
13 *to the process of or in the presence of the court."*

14 TITLE III—TRANSITIONAL PROVISIONS AND
15 EFFECTIVE DATE

16 EXTENSION OF TIME LIMITATIONS

17 SEC. 301. (a) Where an individual with respect to
18 whose disability or death compensation is claimed under
19 the Federal Employees' Compensation Act, as amended,
20 was injured or died outside the United States on or after
21 December 7, 1941, and before August 11, 1946, the time
22 limitations of such Act with respect to the giving of notice
23 of injury and the filing of a claim for compensation shall
24 not begin to run until the date of enactment of this Act.

1 (b) As used in this subsection, the term “United
2 States” includes only the States, Alaska, Hawaii, Puerto
3 Rico, the Virgin Islands, and the Canal Zone.

4 COMPROMISE SETTLEMENTS—PRIVATE ACTS

5 SEC. 302. The provisions of this Act shall not be con-
6 strued to authorize the payment of any compensation under
7 the Federal Employees’ Compensation Act in any case
8 where, pursuant to private relief legislation, a beneficiary
9 of such legislation has accepted payment of a grant in
10 satisfaction of the liability of the United States (or its cor-
11 poration, agency, or other instrumentality) in such case, or
12 where such liability has been compromised and settled, or
13 other satisfaction received, as the result of any action sound-
14 ing in tort or under maritime law, or where a lump sum
15 has been received under section 14 of the Federal Employ-
16 ees’ Compensation Act and the lump-sum award is not
17 modified or set aside for other reasons.

18 EFFECTIVE OPERATION

19 SEC. 303. (a) Except as otherwise provided by this
20 section or in this Act, titles I and II of this Act shall take
21 effect on the date of enactment of this Act and be applicable
22 to any injury or death occurring before or after such date.

23 (b) The amendments made by section 101 of this Act
24 to sections 2 and 8 of the Federal Employees’ Compensation

1 Act shall not apply to any period of disability commencing
2 before the enactment of this Act.

3 (c) The amendments made by sections 102, 103, 105,
4 and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of
5 the Federal Employees' Compensation Act shall be applicable
6 to cases of injury or death occurring before enactment of
7 this Act only with respect to any period beginning on or
8 after the first day of the first calendar month following the
9 enactment of this Act.

10 (d) (1) The amendments made by section 104 of this
11 Act to section 5 of the Federal Employees' Compensation
12 Act, establishing special provisions for permanent disability
13 involving the loss, or loss of use, of a member or function
14 of the body, ~~or disfigurement~~, shall (A) *in cases within*
15 *the purview of section 5 (b) or in cases of disfigurement*
16 *apply retroactively to any case in which the injury where*
17 *the injury occurred on or after January 1, 1940, and (B)*
18 *in other cases, apply retroactively to injuries which occurred*
19 *within one year prior to the enactment of this Act: Provided,*
20 *That where the injury occurred before such enactment,*
21 *except in cases specified in subsection (b) of section 5 of*
22 *such Act, as so amended, the injured employee shall not be*
23 *entitled to compensation under the schedule unless within*
24 *one year after such date of enactment he elects to receive*

1 compensation under the schedule if so entitled: ~~And provided~~
2 *Provided further.* That in the event of such election, all
3 amounts theretofore paid on the basis of loss of wage-earning
4 capacity as compensation for permanent ~~partial~~ disability
5 involving a loss, or loss of use, of a member or function, or
6 disfigurement, as specified in the schedule shall be credited
7 against any compensation awarded by reason of such amend-
8 ment: *And provided further, That any award made under the*
9 *provisions of this subsection shall be payable prospectively in*
10 *the same manner as though the injury occurred after the*
11 *enactment of this Act.*

12 (2) No payment upon death pursuant to section 5 (d)
13 of the Federal Employees' Compensation Act, as amended
14 by this Act, shall be made unless death occurs after such
15 enactment. In the event of such death, the election required
16 by paragraph (1) of this subsection shall be deemed to have
17 been made.

18 (e) Section 107 of this Act, amending section 11 of the
19 Federal Employees' Compensation Act, shall apply only to
20 deaths occurring after the enactment of this Act.

21 (f) (1) The amendments made by section 108 of this
22 Act to the definition of the term "employee" contained in
23 section 40 of the Federal Employees' Compensation Act
24 shall, as to any case of injury or death occurring before the
25 date of enactment of this Act, apply only to injuries or deaths

1 occurring on or after December 7, 1941, and compensation
2 (including medical or other benefits) in any such case shall
3 not be paid for any period earlier than the first day of the
4 first month following enactment of this Act and, in cases of
5 disability caused by such an injury, shall be limited to com-
6 pensation for permanent partial or permanent total dis-
7 ability.

8 (2) The time limitations of the Federal Employees'
9 Compensation Act with respect to the giving of notice of in-
10 jury and the filing of a claim for compensation, in any case
11 brought within the purview of section 40 of such Act by this
12 Act, shall not begin to run until the date of enactment of
13 this Act.

14 (g) The amendment made by section 201 of this Act to
15 section 7 of the Federal Employees' Compensation Act,
16 making the remedy and liability under such Act exclusive,
17 shall not apply to any case of injury or death occurring prior
18 to the enactment of this Act in which liability other than
19 that arising under such Act, or any extension thereof, was
20 finally determined prior to the enactment of this Act.

21 (h) The amendments made by sections 203 and 204
22 of this Act to sections 12 and 13 of the Federal Employees'
23 Compensation Act, pertaining to the determination of the
24 employee's pay or his wage-earning capacity, may, in the
25 interest of justice and in the discretion of the Administrator,

1 be applied in any case, irrespective of the date of injury
2 or death, so as to cause payments of compensation, with
3 respect to any period not earlier than the first day of the
4 first month after enactment of this Act, to be consistent with
5 such amendments.

6 TIME LIMITATIONS NOT EXTENDED

7 SEC. 304. Except as otherwise expressly provided, the
8 enactment of this Act shall not suspend or defer the running
9 of the time limitations of the Federal Employees' Compensa-
10 tion Act with respect to the giving of notice of injury and
11 filing of a claim for compensation.

12 ACCIDENT PREVENTION AND ANNUAL REPORTS

13 SEC. 305. *Section 33 of the Federal Employees' Com-*
14 *pensation Act, as amended, is further amended by desig-*
15 *nating the first two paragraphs thereof, respectively, subsec-*
16 *tions "(a)" and "(b)" and by adding a new subsection des-*
17 *ignated as "(c)", as follows:*

18 *"(c) In order to reduce the number of accidents and*
19 *injuries among Government officers and employees, encourage*
20 *safe practices, eliminate work hazards and health risks, and*
21 *reduce compensable injuries, the heads of the various de-*
22 *partments and agencies are authorized and directed to de-*
23 *velop, support, and foster organized safety promotion, and*
24 *the President may also establish by Executive order a safety*
25 *council composed of representatives of Government depart-*

1 ments and agencies to serve as an advisory body to the
2 Administrator in furtherance of the safety program car-
3 ried out by the Administrator pursuant to this section, and
4 the President may undertake such other measures as he may
5 deem proper to prevent injuries and accidents to persons cov-
6 ered by this Act.”

7 TITLE IV

LIBERALIZATION OF *MINIMUM AND* MAXIMUM COMPENSA-
TION FOR EMERGENCY RELIEF WORKERS

10 SEC. 401. (a) Clauses (a), (b), and (c) of the
11 second proviso to section 1 of the Act approved February
12 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended
13 to read as follows:

14 “(a) that the aggregate monetary compensation
15 in any individual case, except compensation for death
16 or for permanent total disability, shall not exceed the
17 sum of \$4,000 and that the monthly monetary com-
18 pensation shall not in any event exceed \$100, both
19 exclusive of medical costs;

20 “(b) that, in lieu of the minimum limit on monthly
21 compensation for disability established by section 6 and
22 the minimum limit on the monthly pay on which death
23 compensation is to be computed as provided by section
24 10 (K) of such Act, the monthly pay on the basis of
25 which compensation for disability or death is computed

1 shall be deemed to be not less than \$75 and compensa-
2 tion shall be payable on the basis of such pay regardless
3 of the actual pay at the time of injury or death, except
4 that the Federal Security Administrator may from time
5 to time, by regulation, fix a lower minimum monthly pay
6 as a basis for computing such compensation as to any
7 class of individuals, specified in the fourth paragraph of
8 section 42 of such Act, as amended, who sustained injury
9 or were killed outside the continental United States;

10 “(c) that the Federal Security Administrator may
11 from time to time, subject to the above limitations, estab-
12 lish a special schedule of compensation for disability
13 and for death (including a special schedule of compensa-
14 tion for the loss, or loss of use, of members or functions
15 of the body), and compensation under such schedule
16 shall be in lieu of all other compensation in such cases;”.

17 (b) The first proviso to section 8 of the Emergency
18 Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352,
19 356), and the first proviso to section 16 of the Emergency
20 Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809,
21 814), are repealed.

22 (c) This section shall apply to any case heretofore or
23 hereafter coming within the purview of such Act of Feb-
24 ruary 15, 1934, but no compensation shall, with respect
25 to any case of injury or death occurring before the date

1 of enactment of this Act, accrue or be increased by reason
2 of the enactment of this section for any period prior to
3 the first day of the first month following the date of enact-
4 ment of this Act.

5 (d) The special schedule of compensation heretofore
6 established pursuant to clause (a) of the second proviso
7 to section 1 of such Act of February 15, 1934, shall remain
8 in effect until superseded by a new schedule established
9 pursuant to the amendments made by this section.

10 MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

11 SEC. 402. Effective as of July 25, 1947, paragraph a
12 of section 2 of the Act approved July 25, 1947 (ch. 327,
13 61 Stat. 449, 451), is amended by striking out the semi-
14 colon at the end of the provision repealing the Act of July
15 1, 1943 (57 Stat. 371), and the Act of May 14, 1942
16 (56 Stat. 278), as amended, and inserting in lieu thereof
17 a colon and the following proviso: "*Provided*, That section
18 11 of such Act of May 14, 1942, shall remain in effect
19 to the extent specified in section 5 of such Act of July 1,
20 1943;".

A BILL

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

By **Mr. LESINSKI**

MARCH 3, 1949

Referred to the Committee on Education and Labor

JUNE 6, 1949

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

CONSIDERATION OF H. R. 3191

JUNE 24, 1949.—Referred to the House Calendar and ordered to be printed

Mr. DELANEY, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 265]

The Committee on Rules, having had under consideration House Resolution 265, report the same to the House with the recommendation that the resolution do pass.



81ST CONGRESS
1ST SESSION

House Calendar No. 93

H. RES. 265

[Report No. 901]

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 1949

Mr. DELANEY, from the Committee on Rules, reported the following resolution;
which was referred to the House Calendar and ordered to be printed

RESOLUTION

1 *Resolved*, That immediately upon the adoption of this
2 resolution it shall be in order to move that the House resolve
3 itself into the Committee of the Whole House on the State
4 of the Union for the consideration of the bill (H. R. 3191)
5 to amend the Act approved September 7, 1916 (ch. 458,
6 39 Stat. 742), entitled "An Act to provide compensation for
7 employees of the United States suffering injuries while in
8 the performance of their duties, and for other purposes", as
9 amended, by extending coverage to civilian officers of the
10 United States and by making benefits more realistic in terms
11 of present wage rates, and for other purposes. That after
12 general debate, which shall be confined to the bill and con-

1 tinue not to exceed two hours, to be equally divided and
2 controlled by the chairman and ranking minority member of
3 the Committee on Education and Labor, the bill shall be read
4 for amendment under the five-minute rule. At the conclu-
5 sion of the consideration of the bill for amendment, the Com-
6 mittee shall rise and report the bill to the House with such
7 amendments as may have been adopted and the previous
8 question shall be considered as ordered on the bill and amend-
9 ments thereto to final passage without intervening motion
10 except one motion to recommit.

81ST CONGRESS
1ST Session

H. RES. 265

[Report No. 901]

RESOLUTION

Providing for the consideration of the bill (H. R. 3191) to amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

By Mr. DELANEY

JUNE 24, 1949

Referred to the House Calendar and ordered to be printed

evidence of a job well done by the Subcommittee on Appropriations for Agriculture.

The SPEAKER. The question is on the motion offered by the gentleman from Mississippi.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

FEDERAL EMPLOYEES' COMPENSATION ACT AMENDMENTS OF 1949

Mr. DELANEY, from the Committee on Rules, reported the following privileged resolution (H. Res. 265, Rept. No. 901), which was referred to the House Calendar and ordered to be printed:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742) entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes. That after general debate which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

EXTENSION OF REMARKS

Mr. GREEN asked and was given permission to extend his remarks in the RECORD and include a radio address.

Mr. HARDY asked and was given permission to extend his remarks in the RECORD and include two editorials.

Mr. KEOGH asked and was given permission to extend his remarks in the RECORD and include a radio address.

Mr. MULTER asked and was given permission to extend his remarks in the RECORD in four instances and include extraneous matter.

Mr. CLEMENTE asked and was given permission to extend his remarks in the RECORD and include a speech made by Cadet Major Thomas Francis Field.

Mr. DOLLINGER asked and was given permission to extend his remarks in the RECORD and include an editorial.

Mr. RODINO (at the request of Mr. ADDONIZIO) was given permission to extend his remarks in the RECORD in three instances, and include newspaper articles in each instance.

Mr. WALTER asked and was given permission to extend his remarks in the RECORD in three instances: in the first, to include an article by William Schoenberg; in the second, a letter from the head of the Philadelphia Housing; and in the third, a radio broadcast by Charles Collingwood.

Mr. GOSSETT asked and was given permission to extend his remarks in the RECORD in two instances and to include extraneous matter.

Mr. BRYSON asked and was given permission to extend his remarks in the RECORD and include a statement made by him before the House Committee on Education and Labor on Federal aid to public education.

Mr. HARRISON asked and was given permission to extend his remarks in the RECORD and include certain articles.

Mr. GARY asked and was given permission to extend his remarks in the RECORD and include an address delivered by Gen. Alexander Vandegrift, former Commandant of the United States Marine Corps on the occasion of the observance of Flag Day ceremonies held at Richmond, Va., on June 12, 1949.

Mr. WALSH asked and was given permission to extend his remarks in the RECORD.

Mr. CHURCH asked and was given permission to extend his remarks in the RECORD and include a radio speech.

Mr. HUGH D. SCOTT, JR. (at the request of Mr. SIMPSON of Pennsylvania) was given permission to extend his remarks in the RECORD and include a speech delivered by Mrs. BOLTON of Ohio.

Mr. BURDICK asked and was given permission to extend his remarks in the RECORD and include a consensus of opinion of consumers on the Brannan farm plan.

CORRECTION OF ROLL CALL

Mr. ANGELL. Mr. Speaker, the RECORD of June 22 at page 8294, on roll call 111, purports to show that I did not answer to my name. I was present and answered "yea."

I ask unanimous consent that the RECORD and Journal be corrected accordingly.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

EXTENSION OF REMARKS

Mr. ANGELL asked and was given permission to revise and extend the remarks he intends to make in Committee of the Whole this afternoon and include certain correspondence.

PERMISSION TO ADDRESS THE HOUSE

Mr. SADLAK. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks, and include a release from the Labor Department of the State of Connecticut.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

[Mr. SADLAK addressed the House. His remarks appear in the Appendix of today's RECORD.]

EXTENSION OF REMARKS

Mr. GOODWIN asked and was given permission to extend his remarks in the RECORD and include an editorial.

Mr. BOGGS of Delaware (at the request of Mr. NICHOLSON) was given per-

mission to extend his remarks in the RECORD and include extraneous matter.

PERMISSION TO ADDRESS THE HOUSE

Mrs. ROGERS of Massachusetts. Mr. Speaker, I ask unanimous consent to address the House for 1 minute, revise and extend my remarks, and include a letter from the Veterans' Administration regarding veterans' insurance.

The SPEAKER. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

VETERANS' LIFE INSURANCE

Mrs. ROGERS of Massachusetts. Mr. Speaker, Members have asked me if the VA had the money set apart with which to meet insurance dividends or refunds to the veterans. I believe many of the Members of the House will be interested in a letter I have received from the Veterans' Administration. The letter states:

All moneys received on account of national service life insurance are placed in a special trust fund in the Treasury known as the national service life insurance fund. Except for a comparatively small working balance in cash and assets represented by policy loans, the fund is invested in United States Treasury notes. When amounts are to be disbursed which exceed current income, as will be the case in connection with the special dividend payment, the United States Treasury notes are redeemed for cash.

The letter is as follows:

VETERANS' ADMINISTRATION,
Washington, D. C., June 23, 1949.

Hon. EDITH NOURSE ROGERS,
House of Representatives,
Washington, D. C.

DEAR MRS. ROGERS: In regard to your telephone inquiry as to the manner in which funds will be made available for payment of the special dividend on national service life insurance I am pleased to supply you with the following facts.

All moneys received on account of national service life insurance are placed in a special trust fund in the Treasury known as the national service life insurance fund.

Except for a comparatively small working balance in cash and assets represented by policy loans, the fund is invested in United States treasury notes.

When amounts are to be disbursed which exceed current income, as will be the case in connection with the special dividend payment, the United States Treasury notes are redeemed for cash.

Sincerely yours,

HAROLD W. BREINING,
Assistant Administrator for Insurance.

EXTENSION OF REMARKS

Mr. MCGREGOR asked and was given permission to extend his remarks in the RECORD in three instances and to include in each case an editorial.

Mr. ARENDS asked and was given permission to extend his remarks in the RECORD.

Mr. DAGUE asked and was given permission to extend his remarks in the RECORD and include an article by Mr. Gould Lincoln.

Mr. JONAS asked and was given permission to extend his remarks in the RECORD and include a resolution from the Assembly of the State of Illinois.

Mr. EATON asked and was given permission to extend his remarks in the

RECORD and include an address by Governor Dewey of New York.

Mr. COTTON asked and was given permission to extend his remarks in the RECORD and include an address delivered by the gentleman from Washington, WALT HORAN.

Mr. ELSTON was given permission to extend his remarks in the RECORD and include an article by Lt. Gen. Leslie R. Groves, which appeared in the Washington Herald of June 19.

Mr. SMITH of Wisconsin asked and was given permission to extend his remarks in the RECORD in two instances and to include extraneous matter.

Mr. SANBORN asked and was given permission to extend his remarks in the RECORD and include a copy of a letter.

Mr. McCULLOCH asked and was given permission to extend his remarks in the RECORD and include an article from the Cleveland Plain Dealer.

Mr. DONOHUE asked and was given permission to extend his remarks in the RECORD in two instances and include extraneous matter.

CORRECTION OF ROLL CALL

Mr. WERDEL. Mr. Speaker, I ask unanimous consent to correct roll call No. 112 to show that I was present. I was present and answered to my name, and I wish the permanent RECORD corrected accordingly.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. PHILLIPS of Tennessee. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

REPAYMENT OF OVERCHARGES ON INSURANCE

Mr. PHILLIPS of Tennessee. Mr. Speaker, as a member of the Veterans' Committee, I wish to state that in 1947 an investigation was made to determine if overcharges could be paid or returned to the veterans of this country. We are now told there are approximately \$2,800,000,000 in overcharges that were collected from the veterans of this country which has not been returned to those veterans. I cannot think of any better thing that could be done by this Congress than to immediately release this great amount of money and to place it into the economy of America. While we are facing unemployment and while the veterans are having difficulty meeting their bills, they should have it now and not a year later.

The SPEAKER. The time of the gentleman from Tennessee has expired.

PERMISSION TO ADDRESS THE HOUSE

Mr. HALE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Maine?

There was no objection.

[Mr. HALE addressed the House. His remarks appear in the Appendix of today's RECORD.]

PERMISSION TO ADDRESS THE HOUSE

Mr. BYRNES of Wisconsin. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AGRICULTURE'S NEW ELECTRONIC BRAIN

Mr. BYRNES of Wisconsin. Mr. Speaker, the Associated Press reported last night that there has been delivered to the Agriculture Department "a new electronic brain, bigger than an upright piano and looking like a panel of gymnasium lockers" which has already "started thinking big thoughts for the taxpayers."

We have now learned the worst.

Without question, this thinking machine has already begun work on the Brannan electronic farm plan. This new plan will do more than pay the farmer high prices for produce which will be sold to consumers at low prices with no visible increase in the taxpayer's burden. It will undoubtedly devise a method for growing wheat without planting any seeds, for producing milk without feeding any cows and for gathering wool without shearing any sheep.

When this plan is put into operation, the farmers can all retire to the cities, the consumers can move to cottages in the country, the Bureau of Internal Revenue will wither away and die, and the present Secretary of Agriculture can take a well-earned rest, secure in the knowledge that his replacement—the new electronic brain—is efficient, tireless, and scientifically incapable of the slightest error, political or otherwise.

PERMISSION TO ADDRESS THE HOUSE

Mr. BATTLE. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

ALABAMA SUPPORTS LAW AND ORDER

Mr. BATTLE. Mr. Speaker, the gentleman from New York, chairman of the House Judiciary Committee, has appointed a subcommittee to investigate recent infractions of the law in Alabama. Since the gentleman from New York [Mr. CELLER] did not consult me about this investigation which will take place in my district, I feel it my duty to warn him that any political exploitation of this serious and regrettable situation will deter rather than facilitate justice.

It is my strong feeling that we in Alabama are entitled to an opportunity to take action on a local level and with the proper law enforcement authorities. Ill-considered action on the part of the United States Congress strengthens the hand of lawless groups because they thrive on outside intervention.

The best way that the Congress can help out is to stay out. If we were help-

less to meet the situation or disinterested, it would be different. But our law enforcement officers, backed by a solid force of our citizens, are on the move. A citizens' Committee of Five Hundred has been formed to mobilize our entire community in support of law and order. Veterans' organizations, civic, religious, educational, and industrial groups have united behind the law for the purpose of cleaning house. The newspapers are leading the crusade for justice. These public-spirited groups and law enforcement agents have my full and complete support.

The sense of justice of our people has been greatly aroused. The State senate has just passed a measure by an overwhelming vote to outlaw the wearing of hoods and masks. It is felt certain that the State house of representatives will make this into law when it meets again next Tuesday. A special grand jury has made a careful investigation of the attack on the miners and mine operators which recently occurred 15 miles south of Birmingham. As the presiding judge brought out, this is the first armed violence in this area in more than 40 years. The grand jury has already returned 14 indictments and made 7 arrests in this instance.

I am in constant touch with the FBI and the Justice Department. I have just had a long talk with Attorney General Tom Clark who assured me of his active assistance if any violations of Federal laws are involved. Regardless of what action Congress may take, we in my district are determined to take whatever steps are necessary to clean our house and prevent such lawlessness in the future.

PERMISSION TO ADDRESS THE HOUSE

Mr. BUCHANAN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

LOW-COST HOUSING RENTALS

Mr. BUCHANAN. Mr. Speaker, in the course of debate on the rule bringing H. R. 4609 to the floor, the distinguished minority leader the gentleman from Massachusetts [Mr. MARTIN] said—and this appears in the CONGRESSIONAL RECORD for Wednesday, June 22, page 8295—that families selected for the public housing contemplated under H. R. 4009—"must expect to pay \$50 or \$60 per month in addition to the Government contribution. No one unable to pay \$50 could qualify. The Government subsidy would bring it down to this rental. People able to pay \$50 a month should find little difficulty in getting a home built by private enterprise. It is the group who cannot afford to pay half that rent we should worry about. There is no relief in this bill for them."

Evidently, the distinguished minority leader was either mistaken or had not studied carefully the provisions of the bill nor the report from the House Banking and Currency Committee.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

RACE RIOTS IN THE DISTRICT OF COLUMBIA

Mr. RANKIN. Mr. Speaker, the Communists have finally succeeded in bringing on a race riot in the District of Columbia, and those communistic propagandists on the floor of this House are largely responsible for it.

This proposition of wiping out segregation in the public schools of the District of Columbia, and in the playgrounds and swimming pools, has created a race riot that has lasted for 2 days in Anacostia, and resulted in the closing of their swimming pool indefinitely.

Yesterday it took 50 policemen to keep the peace around that swimming pool, and even then they failed.

Who is responsible for all this trouble? It is these communistic agitators. They have infiltrated into this country and many of them have slipped into Government positions. They should be ousted and deported at once. They are running around trying to stir up race trouble between the whites and the blacks, who are getting along better in America, and especially in the South, where we have complete segregation, than they are anywhere else in the world.

The SPEAKER. The time of the gentleman from Mississippi has expired.

INCREASING RATES OF COMPENSATION OF HEADS AND ASSISTANT HEADS OF EXECUTIVE DEPARTMENTS

Mr. SABATH, from the Committee on Rules, submitted the following privileged resolution (H. Res. 274) providing for consideration of the bill (H. R. 1689) to increase rates of compensation of the heads and assistant heads of executive departments and independent agencies, which was referred to the House Calendar and ordered printed:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 1689) to increase rates of compensation of the heads and assistant heads of executive departments and independent agencies. That after general debate, which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House and such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

EXTENSION OF REMARKS

Mr. McCORMACK asked and was given permission to extend his remarks in the Appendix of the Record in two separate instances and in each to include extraneous matter.

Mr. WHITE of California asked and was given permission to extend his re-

marks in the Record and include extraneous matter.

PERMISSION TO ADDRESS THE HOUSE

Mr. REES. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

EXCISE TAXES

Mr. REES. Mr. Speaker, I am astonished that the leadership of this House indicates that excise taxes are all permanent taxes that will be continued for some time to come. I had hoped that we would receive a little encouragement by getting rid of at least a part of these excise taxes as quickly as may be done. We have got to cut expenses, of course, in order to cut taxes; this we all know. But it is unfortunate to be informed by the leadership that these taxes are to be permanent and to be continued. As I say, I had hoped we would be given some encouragement that we would get rid of excise war taxes instead of continuing them on.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. REES. I am glad to yield to the distinguished majority leader of the House. I am always glad to yield.

Mr. McCORMACK. Was it not the last Congress that made them permanent?

Mr. REES. Oh, no; the last Congress did not make any taxes permanent. As a matter of fact, it gave some consideration to repealing a part of the war taxes that were supposed to be temporary. This Congress ought to relieve the country of at least a part of unnecessary burdensome war-excise taxes.

The SPEAKER. The time of the gentleman from Kansas has expired.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES—HIGHWAY NEEDS FOR THE NATIONAL DEFENSE (H. DOC. NO. 249)

The SPEAKER laid before the House the following message from the President of the United States, which was read, and together with the accompanying papers, referred to the Committee on Public Works and ordered printed with illustrations:

To the Congress of the United States:

I transmit herewith a letter from the Administrator of the Federal Works Agency, enclosing a report on Highway Needs of the National Defense.

The report was prepared at the request of the Congress by the Commissioner of Public Roads in cooperation with the several State highway departments. In compliance with the request, the Secretary of Defense and the National Security Resources Board were invited to cooperate and have responded with suggestion of the indicated or potential needs for improved highways for the national defense. An expression of the views of the National Military Establishment, which has the concurrence of each of the military departments and agencies, is appended.

The larger part of the report presents information in detail concerning the condition of the highways of the country and their fitness to meet defense and civil needs, with particular reference to the national system of interstate highways. There is indication also of certain measures intended to permit the taking of prompt highway improvement action in the event of a national emergency.

This report is a useful document. I recommend it to the consideration of the Congress in connection with such further provision as may be made for the continuance of Federal aid for highway construction.

HARRY S. TRUMAN.

THE WHITE HOUSE, June 30, 1949.

CLAIMS CHARGEABLE AGAINST LAPSED APPROPRIATIONS; UNEXPENDED BALANCES

Mr. DAWSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 3549) to permit the Comptroller General to pay claims chargeable against lapsed appropriations and to provide for the return of unexpended balances of such appropriations to the surplus fund, with Senate amendments, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 2, lines 6 and 7, strike out "on the books of the General Accounting Office."

Page 2, lines 10 and 11, strike out "the balances of the respective lapsed appropriations so transferred" and insert "the respective balances of any lapsed appropriations."

Mr. HALLECK. Mr. Speaker, reserving the right to object, I wonder if the chairman of our committee discussed the matter with the ranking minority member.

Mr. DAWSON. I did, and with all members of the committee, also with the Majority and Minority Leaders.

Mr. HALLECK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The amendments were concurred in.

A motion to reconsider was laid on the table.

AMENDMENT OF FEDERAL EMPLOYEES' COMPENSATION ACT

Mr. DELANEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 265 providing for the consideration of the bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes, and ask for its immediate consideration.

The Clerk read as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State

of the Union for the consideration of the bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes. That after general debate, which shall be confined to the bill and continue not to exceed 2 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. DELANEY. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois [Mr. ALLEN], and at this time I yield myself 3 minutes.

Mr. Speaker, this resolution makes in order consideration of the bill H. R. 3191, which is a bill to provide just compensation for employees of the United States who have suffered injury while in the performance of their duties.

The Federal Employees Compensation Act has been in existence for nearly 33 years. During that time the scale of compensation and benefits for disability and death have been modified on only one occasion, in 1927. Twenty-two years have elapsed without revision of the act. In order to place the scale of benefits in line with the present upswing in wages the major purpose of the bill is to make benefits more realistic in terms of the present wage rate so as to enable a disabled Federal employee and his family to maintain themselves when the employee's wages and his wage-earning capacity has been destroyed or impaired through accident or disease directly attributable to his employment.

The bill has been unanimously reported and the Committee on Rules has provided for 2 hours' general debate.

Mr. ALLEN of Illinois. Mr. Speaker, the gentleman from New York has correctly advised the House in reference to this resolution. There are no requests for time on this side.

Mr. DELANEY. Mr. Speaker, I yield such time as he may desire to the gentleman from Massachusetts [Mr. McCORMACK].

(Mr. McCORMACK asked and was given permission to revise and extend his remarks.)

Mr. McCORMACK. Mr. Speaker, there retires today after 32 years' distinguished service an Army officer who is held in high esteem on Capitol Hill. This officer, Maj. Gen. Wilton B. Persons, has been closely associated with the House of Representatives during the war and post-war years and I believe that those of us who have come to know and consequently to like and to have confidence in Jerry Persons—and I daresay we number most if not all the Members of the House—will want to join me in wishing him good luck and godspeed.

General Persons is the officer who served as chief of congressional liaison for the Army before and during World War II. More recently, when the National Military Establishment was created, General Persons was elevated to the position of Director of Legislative Liaison in the Office of the Secretary of Defense.

General Persons during his tenure in these positions rendered invaluable assistance to the Congress, the Military Establishment, and to the country. His keen appreciation of legislative matters together with his great tact, energy, judgment, and personal integrity have been important factors in the growth of closer mutual understanding of the problems of the Congress and the Military Establishment.

General Persons has had the confidence of Secretaries Stimson, Patterson, Royall, Forrestal, and Johnson. Perhaps the most significant testimonial to General Persons' work has come from General Marshall during World War II when he denied all requests from overseas commanders for General Persons' services despite General Persons' great desire for combat duty. In turning down one such request Marshall has written, "There are few men in the Army whom I consider irreplaceable and Persons is one of them."

Since the war, General Persons has continued his outstanding service amidst the tremendous and difficult problems that have confronted the Military Establishment. As one Member of Congress, I am reluctant to see this fine soldier, patriot, and American leave the Military Establishment. He richly merits the Nation's gratitude.

Mr. DELANEY. Mr. Speaker, I yield such time as he may desire to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Mr. Speaker, the gentleman from New York [Mr. DELANEY], who has called up this resolution, has ably explained the rule and the justification and need for this legislation. I have made a careful study of the bill and the effect of its various provisions, and at this point shall briefly give a résumé of the sections of the four titles of the bill.

Title I:

Section 101 permits compensation payment for first 3 days if disability is longer than 21 days.

Employee permitted to use annual or sick leave with approval of department head.

Section 102, loss or loss of use of two major members of body or blindness regarded is *prima facie*.

Permanent total disability is only overcome upon substantial rehabilitation of the employee or proof of substantial earning after injury.

Section 103 permits administrator to accept unsworn report of earnings.

Forfeiture of compensation if injured employee knowingly misstates his earnings.

Section 104 provides schedule for permanent partial disability where there is total or partial or loss of use of limb or part thereof, an eye, or hearing.

Compensation payable to all kinds of injuries causing permanent disability,

including those cases in which disability is total.

Upon death for causes other than injury unpaid scheduled award is payable to specified beneficiaries ordinarily entitled to death benefits.

Section 105 provides increase of 8½ percent of monthly pay for totally disabled and 8½ percent increase of the difference between such pay at time of injury and reduced earning capacity.

Limits circumstances under which wife, child, or parent is considered a dependent.

Increases present maximum of \$50 to \$75 a month.

Disabled individual undergoing vocational rehabilitation.

Provides a minimum compensation of \$112.50 per month—present law providing \$58.33—for total disability.

Net effect of changes and additions is to increase by 8½ percent of the loss of earnings the basic compensation of 66⅔ percent, in view of the greater need of employee with a dependent or dependents than a single employee.

Section 106 increases death claim for compensation from 66⅔ percent to 75 percent.

Readjustment of percentage of payments to widow or dependent widower.

Administrator in his judgment may make payment direct to minor.

Section 107 increases burial expenses from \$200 to \$400.

Section 108 enlarges definition of employee.

Section 109 increases substances allowances for those beneficiaries where disability or death occurred prior to the act.

Title II. Technical amendments:

Section 201 authorizes Administrator to direct any permanently disabled employee to undergo vocational rehabilitation.

Section 203 defines elements of pay to be considered in making determination of employees' method of computing pay.

Section 204 determines wage-earning capacity in partial-disability cases.

Section 205, Federal Security Administrator charged with administration of act.

Section 206, compensation paid under mistake of law or fact to be recovered or award canceled.

Title III:

Section 301, time limitation applying to notice of injury or death outside United States during war.

Title IV: Provision for liberalization of the minimum and maximum compensation for emergency relief workers.

THE BIRTH OF WORKMEN'S COMPENSATION

Mr. Speaker, the principle involved in compensating employees injured in Government and civilian employment has been close to my heart for many years because I introduced the first workmen's compensation bill to provide for injured employees in 1908—41 years ago.

I submitted the original draft of my bill to the House Committee on Interstate and Foreign Commerce for their views. I was happy to learn later that the gentlemen on this committee were so impressed that they in turn submitted my draft to President Theodore Roosevelt.

The President, having studied this proposed bill, urged that it should be introduced by a Republican instead of by a Democrat. When I was informed of this, I immediately asked for the return of the bill so that I might introduce it myself, because after all, I had spent many, many months of study and preparation on the subject and theory of workmen's compensation and I did not want it to be taken from me; I felt that I was justly entitled to the credit thereof.

A few days after I had introduced my bill embodying therein the principles of compensation that I had tried to perfect, I received information that it would meet with President Roosevelt's favor—for he should be given credit for favoring all progressive and humane legislation.

Soon after, I received a letter from the President asking me to come to the White House to see him. Being a new Member, I realized the reason for his request. However, after further studying my bill, I concluded that several of its provisions must be amended and I, consequently, delayed my visit to the President until I could perfect the bill further.

During the interim, three outstanding friends of mine called on me asking me to take them to the White House to enable them to meet the President on reception day. It was the custom of those days that on each Wednesday from 12 to 1 o'clock, the President would have a reception whereby Members and Senators could visit him and bring along their friends. Of course, the demands upon the President were not as great then as they are today. I explained to my friends that I had never visited the White House before; however, I would have my secretary, who was familiar with these presidential receptions, take them to the White House. They insisted that I take them along, and I could not resist their demands.

On a Wednesday about noon, my friends and I went to the White House. There was a long receiving line when we entered. I gave my name and that of my friends to the President's secretary, who in turn relayed same to the President when our turn in line was reached. Apparently the President did not catch my name at that time. As I was walking away from the President, I noticed that his secretary was whispering something to him, and as I surmised, he pointed out the fact that I was the man he had asked to see. Whereupon President Theodore Roosevelt turned around and in a loud voice said: "Judge SABATH, have you not received my letter asking you to come and see me?" I nearly fell to the floor with surprise, but my friends were jubilant. I acknowledged receiving the letter he sent me and stated further that I would see him as soon as I had completed the amendments that I was working on to perfect my bill. Within a few seconds, he again turned to me and said: "Judge SABATH, please don't go away—remain, for I want to talk to you about your great bill and I want to congratulate you not only on your bill but on the statement that you inserted in the CONGRESSIONAL RECORD explaining the principles of workmen's compensation. You did not say that your statement was

a speech for you embodied it in the Appendix as an extension of remarks." And then he added, in the presence of many Members and other guests who were still in the receiving line: "The Congressmen here don't do that. They prefer inserting remarks into the body of the RECORD in order to make the people back home think that they have made a speech. For that I commend you."

By that time I was the center of attraction and it gave me a great deal of publicity. As a matter of fact, it did not hurt my feelings one bit.

Mr. Speaker, I could not resist the temptation today of recalling this incident, for some 39 years later my bill is being liberalized and broadened so as to provide increased compensation for injured Government employees. I hope that I will be forgiven for explaining the real story about the beginning of workmen's compensation in our country.

I assure you, Mr. Speaker, it was not an easy task to bring about the adoption of that humane principle. Though my original bill was not passed, a committee was appointed to investigate the theory and principle of compensation as I originally advocated, and 2 years later a bill was reported which unfortunately was highly inadequate as compared to the contents of my bill. Yes—to such an extent that I could not vote for it, declaring then and there that I was seeking to bring about a real injured workmen's compensation and not a railroad relief bill.

In those days I devoted much more time to that legislation than I could today, and expended almost a year's salary to familiarize the country, the Members of both bodies, the State officials, labor and social organizations, with the benefits to be accrued from this type of legislation. As a matter of fact, my efforts also extended to the universities and, in fact, to all those individuals and groups whom I thought might be helpful in aiding this legislation.

It is for these reasons, Mr. Speaker, that today, in consideration of the increased costs of living, compensation for injured and disabled Government employees is well in order.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. SABATH. I yield as I always do to the distinguished gentleman from Massachusetts.

Mr. McCORMACK. The gentleman has been a leader all of his life in progressive legislation. He has always stood for everything that is noble and uplifting. I am proud to make this observation. I consider the gentleman from Illinois [Mr. SABATH] to be one of God's noblemen, a man who is an inspiration to all of us. He well deserved the respect and honor of the late President as he does of President Truman. In addition, he has the respect of everyone who knows him or knows of him. Because of his noble integrity and his fine nobility of mind and character, he is honored by everyone who either knows him or knows of him.

Mr. SABATH. Mr. Speaker, naturally I greatly appreciate that statement by

my friend the majority leader. I do not know that I actually deserve all that he has said about me, but I will say that I have endeavored to be a servant of the people that need aid and assistance, and I hope I shall continue as long as I live to try to be of assistance to those who are worthy and who need assistance.

Mr. DELANEY. Mr. Speaker, I move the previous question.

The previous question was ordered.

The resolution was agreed to.

Mr. KELLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H. R. 3191, with Mr. DEANE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Mr. KELLEY. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, this bill was reported out unanimously from the Committee on Education and Labor. Both the minority and majority members of the committee recognized the need for this legislation in order to amend the Federal Employees Compensation Act of 1916. Nothing has been done to improve the Federal Employees Compensation Act since 1927.

Therefore, we all recognized that such improvement was long overdue.

The question has been raised as to the cost involved. The cost of Federal employees compensation today, under the present act, is about \$13,000,000 a year. Under the improved rates of compensation, as provided in this bill, another \$7,000,000 a year is added. A retroactive feature has been provided to take care of those employees who have been permanently injured as in the case of the loss of an arm or leg. The retroactive provision goes back to January 1, 1940. That provision adds another \$8,000,000 to the cost. The total cost would be \$28,000,000. The \$8,000,000 which is added as a result of the retroactive provision will be eliminated at the end of 6 years so that the actual cost under the new act will be \$20,000,000 a year after 6 years.

Mr. Chairman, there is nothing more that I can add, except to say that during the war many serious accidents occurred where employees in ordnance plants and powder plants were permanently injured and many of them lost arms and legs and eyes. It became necessary to recognize that situation and help them and help their families, since the minimum rate under the present act

is \$58.33 a month, but under the new act it will be \$112.50 a month, minimum benefit for disability, and we all know that under present-living conditions, even that is not too high.

The members of the committee also felt that it was necessary to change the rates in order to bring the compensation in line with the compensation granted in various States of the Union. I can say that as the bill not stands the compensation rates are perhaps the average throughout the United States, better than in some States, and not as good as in others. But at least the law will give help to those who need it.

Mr. McCONNELL. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, as has been said by the gentleman from Pennsylvania [Mr. KELLEY], this bill was reported out unanimously by the Committee on Education and Labor. I am sure that all of us are proud of that fact. We may have a good deal of controversy on some other matters, but this bill was reported out of committee without a single dissenting vote.

Mr. Chairman, I would like to call attention to several things in connection with this particular bill. It has been 22 years since any change has been made in the compensation being paid under the Federal Employees' Compensation Act. With the increased cost of living, it was felt by all that it was correct and just that changes be made in the Compensation Act. So, accordingly, the committee went over the provisions of the original bill and various amendments were adopted.

While I realize there is no opposition to the bill, I would like to take a few moments to go into a little more detailed discussion.

Mr. Chairman, this bill would make numerous amendments to the Federal Employees' Compensation Act. Most of the proposed amendments are of a technical nature—either to provide easier and less expensive administration of the act—or to make the language of one section of the act to conform with the changed language of another section. Generally speaking, the major purpose of this bill is to give more liberal disability benefits to Government workers who are injured in the line of duty. It has been 22 years since the disability compensation for Federal workers was adjusted, and the provisions of the present act have become obsolete in the light of changed economic conditions. I think that all of the members of the Education and Labor Committee agree that Government employees are entitled to greater protection from the economic hazards of physical disability. Since there is general agreement on the need for this legislation, I will confine myself to an explanation of the general purposes of the bill.

The Federal Employees' Compensation Act provides certain financial benefits to Government employees who are disabled in their work—and to the families of employees who are killed. In each case, the act sets a maximum and a minimum on disability and death benefits. The maximum benefits are limited by a fixed dollar amount and also by a percentage

of the employees' salary before his injury or death. This bill eliminates the fixed dollar limitation in most cases, and also increases the percentage limit. It also increases the minimum payments guaranteed to disabled employees, and to the widows and children of employees who are killed.

First, let us take the case of a disabled employee. The present act guarantees him \$58.33 a month for total disability. This bill would guarantee him \$112.50. Besides increasing his minimum guaranty, the bill also raises the maximum amount a disabled employee may receive. The present law limits disability compensation to 66⅔ percent of the employee's salary. In addition to this percentage limit, the present law imposes a dollar maximum of \$116 a month on disability payments no matter what amount the employee would be entitled to as a percentage of his salary. This bill eliminates the dollar limitation, and compensation is based entirely on the employee's salary. Under the bill a totally disabled employee is given 75 percent of his salary if he has a wife or children to support. If without dependents, he receives two-thirds of his salary, as he does under present law.

A widow of an employee killed in Government service now receives 35 percent of his salary as compensation under present law. In addition she receives 10 percent of his salary for each child. If she has no children, she would receive 45 percent of her husband's salary under this bill. If she has children she would receive 40 percent for herself, and 15 percent for each child. The present law also imposes both a dollar and a percentage maximum limit on payments to the family of a worker killed in Government service. No matter how many children the widow has, her compensation cannot exceed two-thirds of his salary, and no matter how great his salary, her compensation cannot exceed \$1,400 a year.

The maximums and minimums I have mentioned apply only to employees who are totally disabled, or to the families of employees who are killed. Employees who are partially disabled would receive the same under the bill as they do under the present law—that is two-thirds of the amount by which their earning power has been reduced because of the disability. The partial-disability section of the bill has been amended to make it easier to administer.

Under the present law, an employee who loses a hand, arm, eye, or other member, receives nothing unless the injury disables him. Even if he is disabled, the loss of a member is considered only a partial disability—and his compensation is based on the loss of his earning power. This bill sets up a new standard to compute the compensation for an employee who loses a member, or the use of a member. The bill first provides a schedule of payments for a fixed period after the loss of the member. For example, an employee who loses an arm will receive compensation for 312 weeks in the same amount as if here totally disabled. The schedule in the bill provides a different period of time during

which total disability is presumed because of loss of different members, or the use of members. After this period, the employee may still be eligible for partial-disability benefits based on the loss of his earning power.

Only those Government workers who fit within the definition of "employees" are eligible for disability benefits under the present act. This bill would extend coverage to all those who render personal service to the Government in a civilian capacity, including elected and appointed officials.

Burial benefits are raised to \$400 instead of the \$200 provided now. Helpless employees are allowed \$75 a month for an attendant instead of \$50 now permitted.

Employees may use their accumulated sick leave—and that way have full pay—before taking their smaller benefits under Employees' compensation. The present law requires disabled employees to get permission from the head of their agency before taking sick leave after a disabling injury. At present, employees cannot be paid for the first 3 days of disability—this bill permits payment for the first 3 days if the disability continues for more than 21 days.

I favor the enactment of this bill to relieve some of the financial hardships which accompany physical disability of Federal employees. As the committee points out in its report:

There is no dispute that great hardships are being imposed upon disabled Federal employees or their dependent families and that many of them are left with the only alternative of relying upon charity or the help of their friends to afford them the barest kind of existence. The great Government of the United States, as a matter of common justice to its employees, should remedy this situation and should restore to the employees that measure of security which is necessary to maintain them during disablement, and their dependent families after death due to employment injuries.

Mr. GRANGER. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield.

Mr. GRANGER. Would the provisions of this bill cover an employee of the Soil Conservation Agency or the Bureau of Land Management, an employee who is employed in the field driving a tractor, or something of that sort?

Mr. McCONNELL. I believe it does. That is my understanding.

Mr. GRANGER. I have in mind a case where a young man had both legs cut off. He has had unemployment compensation but it has run out and he cannot get any more. I am wondering if, under the provisions of this bill, he could get additional compensation.

Mr. McCONNELL. It is my understanding that he would be given consideration if this bill is passed.

Mr. GRANGER. Would that be true of the CCC, where a boy had lost the sight of both eyes? Would he be an employee, under the terms of this bill? Many accidents occurred with boys who were working in that service. Would they be considered as Federal employees?

Mr. KELLEY. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield.

Mr. KELLEY. No; because that was prior to the effective date of this act. For instance, you mean they lost an arm or a leg?

Mr. GRANGER. Lost both eyes.

Mr. KELLEY. He would not come under it, because that expired in January 1940. This goes back as far as January 1, 1940.

Mr. McCONNELL. It is retroactive, for the loss of a major member.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield.

Mr. WADSWORTH. Am I correct in my understanding that this bill applies to Members of Congress?

Mr. McCONNELL. It does at the present time. I understand an amendment will be submitted to change that particular section.

Mr. WADSWORTH. Is there any present law of a similar character applying to Members of Congress?

Mr. McCONNELL. I am not aware of a similar law applying to Members of Congress.

Mr. WADSWORTH. May I ask the gentleman from Pennsylvania [Mr. McCONNELL] concerning the funeral expenses provided in this bill at \$400. Am I correct in my statement that the funeral allowance for a deceased veteran is only \$150?

Mr. McCONNELL. I believe the gentleman is correct. This bill increases the funeral benefits from \$200 to \$400 for employees covered under the act.

Mr. WADSWORTH. Does the gentleman believe it should be doubled, made almost three times as large as the burial allowance for a veteran?

Mr. BURKE. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield.

Mr. BURKE. The funeral allowance in this bill is in line with the Longshoreman Compensation Act funeral allowance of \$400. That is how the committee arrived at that figure of \$400. As far as veteran's funeral allowance is concerned, what the gentleman says is true. Of course, this is not the Veterans' Affairs Committee. This legislation is not for the purpose of veteran disabilities or veteran payments. This is for Federal employees. This committee, of course, has no jurisdiction over veteran payments.

Mr. WADSWORTH. It strikes me the discrepancy will be rather conspicuous and that we are setting a precedent here which will shortly be followed. The funeral allowance under any law will rise to that proposed in this bill.

Mr. McCONNELL. It is also important to note that veterans' funeral allowances are different from the allowances under this bill. The allowance here provided applies only to employees who are killed or who die as a result of injuries arising out of employment with the Federal Government.

Mr. WADSWORTH. That is true, of course; I understand that to be the case, but it strikes me that it is pretty extravagant.

Mr. McSWEENEY. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I yield.

Mr. McSWEENEY. I wish to address my request to the gentleman from Ohio [Mr. BURKE].

Is there any difference between a veteran who dies as a noncompensated veteran and one who is compensated in the matter of the \$150?

Mr. BURKE. I do not know the answer to that question.

Mr. McSWEENEY. I know the gentleman had a very interesting answer for me the other day, and I thought it was on that basis. I thought there was a difference between the case of a compensated veteran and one who had never been connected with veterans' insurance.

Mr. BURKE. Does the gentleman mean that the compensable comes under this bill?

Mr. McSWEENEY. Under the veterans' bill. Does the gentleman happen to know about that?

Mr. BURKE. I do not know about that, but if a veteran dies while in the employ of the United States Government he receives this death benefit.

Mr. McSWEENEY. Would he also receive the death benefit under his veterans' compensation?

Mr. BURKE. I imagine so, but I do not know for sure.

Mr. McCONNELL. Mr. Chairman, I do not wish to prolong this debate unduly, but before I conclude I think it is proper that we pay tribute to our colleague on this side, the gentleman from New York [Mr. KEATING], who last year introduced a somewhat similar bill. That bill was reported unanimously by the Committee on Education and Labor of the House. In the early part of this session he also introduced a bill very similar to the original bill introduced by the chairman of the committee, the gentleman from Michigan [Mr. LESINSKI]. From those bills were evolved the present piece of legislation now under consideration.

Mr. KEATING. Mr. Chairman, will the gentleman yield?

Mr. McCONNELL. I gladly yield to the gentleman from New York [Mr. KEATING].

Mr. KEATING. Mr. Chairman, I appreciate very much the remarks of the distinguished ranking minority member of the Committee on Education and Labor, the gentleman from Pennsylvania [Mr. McCONNELL]. He and the other members of the committee are to be commended for the constructive and non-partisan approach which they have accorded the consideration of this important and long-awaited legislation.

As the gentleman has indicated, more than 2 years ago, on April 28, 1947, I introduced in the Eightieth Congress H. R. 3239, designed to make more realistic, in the light of existing living costs and wage rates the compensation paid to a Federal employee injured in line of duty or to his widow and family in the event of injury resulting in death, and also to make provision, in line with the progressive State laws, for a scheduled number of weeks' compensation in the case of loss of a member of the body.

This bill received unanimous favorable action of the House Committee on Education and Labor in the last Con-

gress, but was not considered by the House itself, due to the legislative log jam.

On the opening day of this session I introduced H. R. 76, which was followed 1 week thereafter by the introduction of an identical bill by the chairman of the committee, the gentleman from Michigan [Mr. LESINSKI]. Then later, on March 3, 1949, he offered the bill now before us, which has been recommended for passage by the Director of the Bureau of Employees' Compensation.

Although I have been a loud protester against the size of the Federal pay roll and believe it can and should be substantially reduced, I am no less firm in my conviction that we have a duty and responsibility to extend to those who continue as employees of the Government, every protection which would be afforded them in industry or private employment.

In 1916 Congress adopted a Federal workmen's compensation law. In 1927 it was amended in some respects. But for 22 years since that time there has been no change in the rate of compensation to be paid to those who receive injuries arising out of, and in the course of, their employment. In the meantime, living costs have soared, as have salaries and wages, to the point where they are scarcely comparable with those of the twenties. Yet if a Government worker is laid up through injury today, he receives two-thirds of his pay, with a top limit of \$116.66 a month. What amounted to two-thirds of pay in 1927 is more like two-fifths of pay.

This bill raises the maximum from \$116.66 to \$225, and the minimum from \$58.33 to \$112.50 a month.

The bill also increases the benefits to widows and children from 35 to 50 percent in the case of widows, and from 25 to 35 percent in the case of dependent children.

Furthermore, a serious deficiency in the compensation law is rectified by the bill before us. The inadequacy of existing law was forcibly brought to my attention by a case involving one of my constituents, which caused my original interest in this subject and the introduction of legislation in the Eightieth Congress. A young man had tried to enlist in the Navy during the war but was turned down because of a stomach condition. He then became director of a proving ground in a civilian capacity, and did outstanding service in the field of explosives in the development of the now famous proximity fuse.

In an explosion in late 1944 his hand was so badly injured that it had to be amputated. If he had been wearing a uniform at the time he would have become the beneficiary, and quite properly so, of many benefits from a grateful Nation. I was quite amazed to find, on checking into it, that under the Federal workmen's compensation law, no provision is made to compensate civilian employees who receive such permanent injuries resulting in the loss of an arm, leg, hand, foot, eye, or loss of hearing.

Parenthetically, may I say that this constituent has, with rather unusual

conscientiousness, declined my offer to introduce a private bill for his benefit.

The legislation before us corrects this situation, which I consider a deficiency in our obligation as a Nation to those who faithfully serve us daily as our employees. This bill provides a specified number of weeks' compensation in case of the loss, or loss of use, of an arm, leg, hand, foot, eye, finger or toe, or loss of hearing, to the extent of two-thirds of his monthly pay subject to the same maximum limitations, as follows:

Member lost:	Number of weeks' compensation
Arm.....	312
Leg.....	288
Hand.....	244
Foot.....	205
Eye.....	160
Thumb.....	75
First finger.....	46
Great toe.....	38
Second finger.....	30
Third finger.....	25
Toe, other than great toe.....	16
Fourth finger.....	15
Loss of hearing, both ears.....	200
Loss of hearing, 1 ear.....	52

There are further provisions covering loss of vision, serious disfigurement of the face, head, or neck, which would act as a handicap in securing or maintaining employment, and many other details which are explained in the committee's report.

In general, I favor the enactment of this legislation in the form in which it has been presented to us and approve of the respects in which it differs from the measure of which I was the author. There is one exception to this general statement, which is found on page 19, where it is sought to bring Members of Congress within the benefits of this legislation. I believe it is neither necessary nor appropriate for us to take this step and am opposed to the extension of the provisions of this law to Members of Congress. It is intended to benefit employees, not officials, or high-salaried officers in the legislative or executive branches. I have understood that an amendment will be offered to strike out this provision, which I hope will be adopted.

This legislation fulfills a long-standing need. It warrants overwhelming support.

(Mr. KEATING asked and was given permission to revise and extend his remarks.)

Mr. McCONNELL. Mr. Chairman, I have no further requests for time on this side.

(Mr. McCONNELL asked and was given permission to revise and extend his remarks.)

(Mr. KELLEY asked and was given permission to revise and extend his remarks.)

Mr. KELLEY. Mr. Chairman, I yield such time as he may desire to the gentleman from Ohio [Mr. BURKE].

Mr. BURKE. Mr. Chairman, I do not intend to take a great deal of time because anything I may say about this bill would be pretty much repetition of what has been said already. At the risk of being a bit repetitious, however, of the chairman of the subcommittee and the

ranking minority member of the committee, I would like to point out that this is the first attempt at modernization of the workmen's compensation as set up for Federal employees since 1927. It is really the first major amendment to the Federal Employees Workmen's Compensation Act since enactment of the original law back in 1916.

The changes that are suggested in this bill are indicated as being very necessary to bring our workmen's compensation set-up in line with various State laws that have kept pace with modern times.

May I point out also that this bill sets up a schedule of compensation for the loss of members of the body on a permanent partial-payment system similar to the States of New York and Ohio. That is responsible for the additional cost of the bill. It is well to note that although estimates have been given of some \$8,000,000 in additional cost, and for the retroactive feature of the bill another seven or eight million dollars over a period of 6 years, at the same time the bill eliminates tort claims and special acts of Congress that have come up from time to time for the compensation of employees for the loss of members they may have suffered, which system in itself gives rise to some discrimination because one Congress may award a certain amount to an individual for the loss of an arm, let us say, and another Congress would award a different amount, either more or less, for the loss of the same kind of member.

We feel that setting up this schedule will do much to straighten out and to put on an equitable basis payments for the loss of members of the body.

The death benefits have been increased, as has been pointed out. The funeral allowances have been increased also. I will not go into any of the other provisions of the bill which have been adequately covered by two members of the committee who have spoken before.

This bill, I would like to reiterate, has received the unanimous recommendation of the Committee on Education and Labor, and prior to that by the subcommittee charged with the responsibility of considering the bill and holding hearings on it.

Mr. GRANGER. Mr. Chairman, will the gentleman yield?

Mr. BURKE. I yield to the gentleman from Utah.

Mr. GRANGER. Is there any reason why the retroactive feature of it was fixed as 1940?

Mr. BURKE. Yes.

Mr. GRANGER. What was the reason?

Mr. BURKE. That was the nearest date that we could reach to the beginning of the national defense program and the tremendous increase in Federal employment because of war activities and national defense activities.

Mr. McCONNELL. Mr. Chairman, will the gentleman yield?

Mr. BURKE. I yield to the gentleman from Pennsylvania.

Mr. McCONNELL. Was not another reason that the real cost of living began to be noticeable at about that date—1940?

Mr. BURKE. Yes.

Mr. GRANGER. Would the setting of this date back in 1935 increase the amount of this bill very materially?

Mr. BURKE. Oh, yes; it would increase it. As to how much, would be a guess on my part, probably an additional four or five million dollars a year, and cover the same 6-year period as the other retroactive increase would cover.

Mr. McSWEENEY. Mr. Chairman, will the gentleman yield?

Mr. BURKE. I yield to the gentleman from Ohio.

Mr. McSWEENEY. I want to say that I feel, as a new Member, that the gentleman has inspired confidence in us, especially on labor matters, and I am very proud to hear the sentiments expressed by the gentleman from Ohio on this question. I was also interested in what the gentleman from New York said. I am interested in the broad differential between the bare expenses of soldiers and the men that come under this bill. Was that discussed in the gentleman's committee?

Mr. BURKE. No; that was not discussed, and probably for this reason, that no one thought of it in the first place. In the second place, in setting our figure, we arrived at the figure by virtue of a like amount that was set in a similar bill in a similar act of the Congress, that covers the payment of workmen's compensation to employees in the longshore industry. Of course, that is on a private individual basis, through private employers. But, the schedules and the payments, of course, are dictated by law, and the amount that we arrived at, the \$400 funeral allowance, was identical with the \$400 funeral allowance in that longshore bill.

Mr. McSWEENEY. Were any of the State industrial commission laws taken into consideration?

Mr. BURKE. Yes. We considered the laws of New York, Ohio, and so on.

Mr. McSWEENEY. How do they compare; does the gentleman remember?

Mr. BURKE. Does the gentleman mean in the matter of funeral allowance?

Mr. McSWEENEY. Yes.

Mr. BURKE. Some are about this figure, some are a little lower, and some are way below.

Mr. McSWEENEY. I merely have the experience as director of welfare of Ohio that our allowance for indigent patients was something like \$90, and at that time we could give them quite a good funeral.

Mr. BURKE. That was for indigents?

Mr. McSWEENEY. Yes.

Mr. BURKE. That was not workmen's compensation. I think the lowest workmen's compensation rate in Ohio was \$125. That was in the original workmen's compensation act there. Since that time, in practically every session of the legislature, there have been some changes in their Workmen's Compensation Act, and, as you know, it is usually an agreed bill that comes before the legislature, and as the years went on that was increased. I believe the session that I was a member of the legislature—and I was coauthor of the act—we raised it at that time to \$240,

and it has been raised since then at least three times that I know of, so that it is now in the neighborhood of \$350 to \$400.

Mr. McSWEENEY. I thank the gentleman.

Mr. BURKE. I do not know what the exact figure is, because the present legislature in Ohio has further increased it, but to what extent I have not been informed.

Mr. KELLEY. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That this act may be cited as the "Federal Employees' Compensation Act Amendments of 1949."

TITLE I—SUBSTANTIVE AMENDMENTS

WAITING PERIOD MODIFIED

SEC. 101. (a) Section 2 of the act approved September 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this act referred to as the "Federal Employees' Compensation Act"), as amended (5 U. S. C., 1946 edition, sec. 752), is hereby amended to read as follows:

"SEC. 2. That with respect to the first 3 days of temporary disability the employee shall not be entitled to compensation except as provided in section 9, unless such disability exceeds 21 days in duration or is followed by permanent disability."

(b) Section 8 of such act (5 U. S. C., 1946 edition, section 758), is amended to read as follows:

"SEC. 8. If at the time the disability begins the employee has annual or sick leave to his credit he may use such leave until it is exhausted, in which case his compensation for disability shall not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased."

BASIC BENEFIT FOR TOTAL DISABILITY

SEC. 102. Section 3 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 753), is hereby amended to read as follows:

"SEC. 3. (a) Except as otherwise provided in this act, if the disability is total the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66⅔ percent of his monthly pay, which shall be known as his basic compensation for total disability.

"(b) Loss, or loss of use, of both hands, or both arms, or both feet, or both legs, or both eyes or the sight thereof, or of any two thereof shall, prima facie, constitute permanent total disability."

BASIC BENEFIT FOR PARTIAL DISABILITY

SEC. 103. (a) Section 4 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 754), is further amended to read as follows:

"SEC. 4. (a) (1) Except as otherwise provided in this act, if the disability is partial the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66⅔ percentum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability, which shall be known as his basic compensation for partial disability.

"(2) The Administrator may require a partially disabled employee to make an affidavit or other report, in such manner and at such times as the Administrator may specify as to his earnings, whether from employment or self-employment. In such affidavit or other report the employee shall include, when required, the value of housing, board, lodging, and other advantages which are part of his remuneration for employment or are earnings in self-employment and which

can be estimated in money. If such individual, when required, fails to make such affidavit or other report, or if in such affidavit or report the employee knowingly omits or understates any part of such earnings or remuneration, he shall forfeit his right to compensation with respect to any period for which such report was required to be made, and such compensation, if already paid, shall be recovered by deducting the amount thereof from the compensation payable to him or otherwise recovered in accordance with section 38, unless such recovery is waived pursuant to such section.

"(b) If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation."

(b) Section 39 of such act (5 U. S. C., 1946 edition, sec. 789), is amended by inserting, after "affidavit" the words "or report."

SCHEDULED DISABILITIES

SEC. 104. Section 5 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 755), is amended to read as follows:

"SEC. 5. (a) In any case of permanent disability which involves solely the loss, or loss of use, of a member or function of the body, or disfigurement, as provided in the following schedule, basic compensation for such disability shall, in addition to compensation for any temporary total or temporary partial disability, be payable to the disabled employee for the period specified in such schedule at the rate of 66⅔ percent of his monthly pay and shall, except as otherwise provided in subsection (b), be in lieu of compensation for such permanent disability under the preceding sections of this act:

- "(1) Arm lost, 312 weeks' compensation.
- "(2) Leg lost, 288 weeks' compensation.
- "(3) Hand lost, 244 weeks' compensation.
- "(4) Foot lost, 205 weeks' compensation.
- "(5) Eye lost, 160 weeks' compensation.
- "(6) Thumb lost, 75 weeks' compensation.
- "(7) First finger lost, 46 weeks' compensation.

"(8) Great toe lost, 38 weeks' compensation.

"(9) Second finger lost, 30 weeks' compensation.

"(10) Third finger lost, 25 weeks' compensation.

"(11) Toe other than great toe lost, 16 weeks' compensation.

"(12) Fourth finger lost, 15 weeks' compensation.

"(13) Loss of hearing: (A) Complete loss of hearing of one ear, 52 weeks' compensation; (B) complete loss of hearing of both ears, 200 weeks' compensation.

"(14) Binocular vision or percentage of vision: Compensation for loss of binocular vision or for 80 percent or more of the vision of an eye shall be the same as for the loss of the eye.

"(15) Phalanges: Compensation for loss of more than one phalanx of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalanx shall be one-half of the compensation for loss of the entire digit.

"(16) Amputated arm or leg: If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation shall be the same as for the loss of the arm or leg, respectively.

"(17) Two or more digits: Compensation for loss, or loss of use, of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, shall be proportioned to the loss of use of the hand or foot occasioned thereby.

"(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

"(19) Partial loss or partial loss of use: Compensation for permanent partial loss or

loss of use of a member may be for proportionate loss or loss of use of the member. The degree of loss of vision or hearing under this schedule shall be determined without regard to correction.

"(20) In any case in which there shall be a loss or loss of use, of more than one member or parts of more than one member as enumerated herein, the award of compensation shall be for the loss, or loss of use, of each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.

"(21) Disfigurement: Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

"(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision), or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual's basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be 66⅔ percent of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is total or as provided in subsection (a) of section 4 if the disability is partial.

"(c) The period of compensation payable under the schedule to subsection (a) of this section on account of any injury shall be reduced by the period of compensation paid or payable under such schedule on account of a prior injury if compensation in both cases is for disability of the same member or function, or different parts of the same member or function, or for disfigurement, and the Administrator finds that compensation payable on account of the subsequent disability in whole or in part would duplicate the compensation payable on account of the pre-existing disability. In such cases, for the purposes of disabilities specified in subsection (b), compensation for disability continuing after the schedule period shall commence upon expiration of such period as reduced under this subsection.

"(d) (1) If an individual who has sustained disability compensable under subsection (a) (including any disability compensable under the schedule to subsection (a) by virtue of subsection (b)), and who has filed a valid claim in his lifetime, dies, from causes other than the injury, before the expiration of the compensable period specified in such schedule, the compensation specified in such schedule and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in such schedule, to and for the benefit of the persons then in being within the classes and in the proportions and upon the conditions specified in this subsection and in the order named:

"(A) to the widow (as defined in section 10 (H) or wholly dependent widower (as specified in section 10 (B))), if there is no child (as so defined) under the age of 18 or incapable of self-support; or

"(B) if there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

"(C) if there is no such widow or widower but such a child or children, then to such child or children; or

"(D) if there is no survivor in the above classes, then to the parent or parents wholly or partly dependent for support upon the decedent, or to other wholly or partly dependent relatives listed in section 10 (F), or to both, in such proportions as may be provided by regulation; or

"(E) if there is no survivor in any of the above classes, and no burial allowance is payable under section 11, then such amount, not exceeding the amount which would be expendable under section 11 if such section were applicable, shall be paid to reimburse any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

"(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual's death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent partial disability specified in subsection (b) (a) of this section, even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

"(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

"(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would have been payable to him had such entitlement continued shall be payable to the surviving beneficiary or beneficiaries, if any, within the same class or, if there are none, then to the beneficiary or beneficiaries next entitled to priority under such paragraph."

ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM BENEFIT AMOUNT—DEPENDENTS' BENEFITS, AND SO FORTH

SEC. 105. (a) Section 6 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 756), is further amended to read as follows:

"SEC. 6. (a) (1) While the disabled employee has one or more dependents, his basic compensation for disability payable under section 3 or section 5 (a) (including compensation payable under the schedule to section 5 (a) by virtue of section 5 (b)) shall be augmented at the rate of $8\frac{1}{3}$ percent of his monthly pay, and his basic compensation for disability payable under section 4 (a) shall be augmented at the rate of $8\frac{1}{3}$ percent of the difference between his monthly pay and his monthly wage-earning capacity.

"(2) As used in this subsection, the term 'dependent' shall mean any of the following:

"(A) A wife, if (i) she is a member of the same household as the employee or is receiving regular contributions from him toward her support, or (ii) he has been ordered by any court to contribute to her support.

"(B) A husband, if wholly dependent by reason of his own physical or mental disability upon the employee for support.

"(C) An unmarried child (as defined in section 10 (H)), while such child (i) is under 18 years of age or, if over 18, is incapable

of self-support by reason of mental or physical disability, and (ii) is living with the employee or receiving regular contributions toward his support from the employee.

"(D) A parent (as defined in section 10 (H)), while wholly dependent upon and supported by the employee.

"(b) (1) In addition to the monthly compensation otherwise specified in this act, the Administrator may pay an injured employee, who has been awarded compensation for permanent total disability from injury, an additional sum of not more than \$75 a month, as the Administrator may deem necessary, when the Administrator shall find that the service of an attendant is necessary constantly to be used by reason of the employee's being total blind, or having lost both hands or both feet or the use thereof, or being paralyzed and unable to walk, or by reason of other total disability actually rendering him so helpless as to require constant attendance.

"(2) The Administrator may pay to any disabled individual who is undergoing vocational rehabilitation pursuant to the Administrator's direction under section 9 (b) additional compensation necessary for his maintenance, but not to exceed \$50 per month.

"(c) Except as otherwise authorized under section 42, the monthly rate of compensation for total disability, including any augmented compensation payable by reason of subsection (a) but not including any sum payable by reason of subsection (b), shall not be less than \$112.50 per month, unless the employee's monthly pay is less in which case his monthly rate of compensation shall be equal to his full monthly pay.

"(d) (1) In the case of any person who at the time of the injury was a minor or employed in a learner's capacity and who, prior to the injury, was not physically or mentally handicapped, the Administrator shall, on any review under section 37 after the time when the wage-earning capacity of such person would probably, but for the injury, have increased, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable increased wage-earning capacity. The Administrator may, on any review under section 37 after a disabled employee has attained the age of 70 years and the wage-earning capacity of the disabled employee would probably, aside from and independently of the effects of the injury, have decreased on account of old age, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable decreased wage-earning capacity.

"(2) If a disabled individual, without good cause, fails to apply for and undergo vocational rehabilitation when so directed pursuant to section 9 (b), and the Administrator, upon review under section 37, finds that in the absence of such failure the individual's wage-earning capacity would probably have substantially increased, the Administrator may prospectively reduce the individual's monetary compensation in accordance with what would probably have been his wage-earning capacity in the absence of such failure, until the individual in good faith complies with the Administrator's direction."

INCREASE IN DEATH BENEFITS, AND SO FORTH

SEC. 106. (a) Section 10 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 760), is further amended by striking out "66 $\frac{2}{3}$ " wherever it occurs and inserting in lieu thereof "75"; by striking out "35" in clauses (A) and (B) and inserting in lieu thereof "45"; by striking out in clause (C) the words "the compensation payable under clause (A) or clause (B)" and inserting in lieu thereof "40 percent"; by striking out "10" in clauses (C) and (D) and inserting in lieu thereof "15";

and by striking out "25" in clause (D) and inserting in lieu thereof "35."

(b) Clause (K) of such section, as amended, is further amended to read as follows:

"(K) In computing compensation under this section the monthly pay shall be considered not to be less than \$150, but the total monthly compensation shall not exceed the monthly pay computed as provided in section 12."

(c) Clause (B) of such section, as so amended, is further amended to read as follows:

"(B) To the widower, if there is no child, 45 percent if wholly dependent for support, by reason of his physical or mental disability, upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage or until he becomes capable of self-support."

(d) Such section, as so amended, is further amended by striking out the second sentence of clause (C), the last sentence of clause (D), and the last sentence of clause (G).

(e) Clause (L) of such section, as so amended, is amended to read as follows:

"(L) If any person entitled to compensation under this section or section 5 or 6, whose compensation by the terms of this or of such other section ceases or is to be reduced upon his marriage or upon the marriage of his dependent, accepts any payments or compensation after such marriage, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than 1 year, or by both such fine and imprisonment."

LIBERALIZATION OF BURIAL PAYMENTS

SEC. 107. Section 11 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 761), is further amended to read as follows:

"SEC. 11. If death results from the injury the United States shall pay, to the personal representative of the deceased employee or otherwise, funeral and burial expenses not to exceed \$400, in the discretion of the Administrator. In the case of an employee whose home is within the United States, if his death results from the injury while he is away from his home or official station or is outside of the United States, or if his death results from other causes while he is away from his home or official station for the purpose of receiving medical or other services, appliances, or supplies under section 9 or examination under section 21, and if so desired by his relatives, the body shall, in the discretion of the Administrator, be embalmed and transported in a hermetically sealed casket to the home or last place of residence of the employee at the expense of the employees' compensation fund. If, in such cases, request for return of the body is not made by the decedent's relatives, the Administrator may provide for the disposition of the remains and incur, and cause payment from the employees' compensation fund of, such necessary transportation, funeral, and burial expenses as under the circumstances shall be reasonable."

EXTENSION OF COVERAGE, AND SO FORTH

SEC. 108. (a) Section 40 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 790), is further amended, by designating the paragraphs thereof, following the introductory phrase, as paragraphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)", and "(h)", respectively.

(b) Paragraph (b) of such section, as so designated, defining the term "employee", is further amended to read as follows:

"(b) The term 'employee' includes (1) all civil officers and employees of all branches of the Government of the United States (including Members of Congress and officers and employees of instrumentalities of the United States wholly owned by the United States); (2) commissioned officers of the Regular Corps of the Public Health Service; (3) officers in the Reserve of the Public Health

Service on active duty; (4) persons rendering personal services of a kind similar to those of civilian officers or employees of the United States or to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it), without compensation or for nominal compensation, in any case in which acceptance or use of such services is authorized by an act of Congress or in which provision is made by law for payment of the travel or other expenses of such person; and (5) persons, other than independent contractors and their employees, employed on the Menominee Indian Reservation in the State of Wisconsin, subsequent to September 7, 1916, in operations conducted pursuant to the act entitled 'An act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin', approved March 28, 1908, as amended, or any other act relating to tribal timber and logging operations on the Menominee Reservation."

(c) Paragraph (c) of such section, as so designated defining the term "commission", is further amended by inserting "former" after the words "to the" and by striking out the words "provided for in section 28."

(d) Paragraph (f) of such section, as so designated, defining the term "monthly pay", is further amended by inserting, immediately before the period, the following: "except when otherwise determined under section 6 (d) with respect to any period."

(e) Such section is further amended by adding thereto a new paragraph "(i)" reading as follows:

"(i) The term 'Administrator' means the Federal Security Administrator."

INCREASE OF COMPUTATION BASE WHERE INJURY OCCURRED BEFORE JULY 1, 1946

SEC. 109. Notwithstanding any other provision of this act or of the Federal Employees' Compensation Act, the monthly pay upon the basis of which compensation for disability or death is computed under the Federal Employees' Compensation Act, is amended, shall, effective on the first day of the first calendar month following enactment of this act, be increased by 40 percent if the injury (or injury causing death) occurred before January 1, 1941, or by 10 percent if the injury (or injury causing death) occurred on or after such date but before July 1, 1946, except that such increase shall in neither event exceed \$50. This section shall apply to any case of death caused by such an injury, regardless of whether such death occurs or occurred before or after the enactment of this act.

TITLE II—TECHNICAL AMENDMENTS

EXCLUSIVENESS OF REMEDY

SEC. 201. Section 7 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 757), is further amended by inserting the designation "(a)" immediately before the first sentence thereof and by adding to such section a new subsection reading as follows:

"(b) The remedy afforded to any person under this act with respect to his own injury or the death of another individual shall, unless otherwise specifically provided by law, be the exclusive remedy against, and be in place of any other legal liability of, the United States or any of its instrumentalities wholly owned by it, on account of such injury or death, where such liability is determinable by direct judicial proceedings at law in admiralty, or by proceedings under any other workmen's compensation law or under any Federal tort liability statute."

SEC. 202. Section 9 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 759), is amended by inserting before the first sentence thereof the designation "(a)" and by adding at the end of

such section a new subsection reading as follows:

"(b) The Administrator may direct any permanently disabled individual whose disability is compensable under this act to undergo vocational rehabilitation and shall make provision for furnishing vocational rehabilitation services in such cases. In providing for such services, the Administrator shall, insofar as practicable, utilize the services or facilities of State agencies (or corresponding agencies in Territories or possessions) cooperating with him in carrying out the purposes of the Vocational Rehabilitation Act, as amended, except to the extent that the Administrator provides for furnishing such services under subsection (a) of this section. The cost of providing such services to individuals undergoing vocational rehabilitation pursuant to such direction shall be paid from the employees' compensation fund, except that in reimbursing any State agency (or corresponding agency of a Territory or a possession) under any arrangement pursuant to this subsection there shall be excluded any cost to such agency reimbursable in full under section 3 (a) (4) of the Vocational Rehabilitation Act, as amended."

COMPUTATION OF PAY

SEC. 203. Section 12 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 762) is amended to read as follows:

"SEC. 12. (a) In computing monetary compensation for disability or death upon the basis of monthly pay, such pay shall be determined in accordance with the provisions of this section.

"(b) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, shall be included as part of the pay. Overtime pay, or additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstance, or bonus or premium pay for extraordinary service (including amounts paid as bonus for particularly hazardous service in time of war) shall not be taken into account. The term 'overtime pay,' as used in this subsection, means pay for hours of service in excess of those of a statutory or other basic workweek, or other basic unit of work time, as observed by the establishment in which the employee is employed.

"(c) (1) The monthly pay at the time of injury shall be deemed to be one-twelfth of the employee's average annual earnings at that time, except when compensation is paid upon a weekly basis, the weekly equivalent of such monthly pay shall be deemed to be one fifty-second of such average annual earnings: *Provided*, That, for so much of the period of total disability as does not exceed 90 calendar days from the date of the beginning of compensable disability, the compensation may, in the discretion of the Administrator, be computed on the basis of the employee's actual daily wage at the time of injury and in that event he may be paid compensation for such days as he would have worked but for the injury.

"(2) Average annual earnings shall be determined as follows:

"(A) If the employee worked in the employment in which he was working at the time of his injury during substantially the injury, his average annual earnings shall whole of the year immediately preceding such consist of the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by 300 if he was employed on the basis of a 6-day workweek, 280 if employed on the basis of a 5½-day week, and 260 if employed on the basis of a 5-day week, except that if the employment was in a position for which an annual rate of compensation was fixed, such average annual

earnings shall consist of such annual rate of compensation.

"(B) If the injured employee did not work in such employment during substantially the whole of such year, but the position was such as would have afforded employment for substantially a whole year, then the average annual earnings of such employee shall be equal to the average annual earnings of an employee of the same class working substantially the whole of such immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined in accordance with clause (A).

"(C) If either of the foregoing methods of determining the average annual earnings of an injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring locality, or to other previous employment of such employee, or to any other relevant factors, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury: *Provided*, That his average annual earnings shall consist of not less than 150 times the average daily wage which he shall have earned in such employment during the days when so employed within the period of 1 year immediately preceding his injury.

"(D) Such rules shall, so far as practicable, be also applied in the case of an employee serving without pay or at nominal pay: *Provided*, That (i) the average annual earnings shall in no event exceed the basic rate of annual compensation specified under the Classification Act of 1923, as amended, for positions in grade CAF-15 or P-8 at the bottom of such grade, and (ii) if his average annual earnings cannot reasonably and fairly be determined in the manner otherwise provided in this section, such average annual earnings shall be determined at the reasonable value of the service rendered but not in excess of \$3,600 per annum.

"(d) As used in this section the term 'year' means a period of 12 calendar months, or the equivalent thereof as specified in regulations issued by the Administrator."

COMPUTATION OF WAGE-EARNING CAPACITY

SEC. 204. Section 13 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 763), is amended to read as follows:

"SEC. 13. (a) In the determination of an employee's wage-earning capacity after the beginning of partial disability, the rules specified in section 12 (b) shall apply.

"(b) The wage-earning capacity of an injured employee, in determining compensation for partial disability other than permanent partial disability compensable under section 5 (a), shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however*, That if the employee has no actual earnings, or his actual earnings do not fairly and reasonably represent his wage-earning capacity, such wage-earning capacity as shall appear reasonable under the circumstances of the case shall be determined, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition."

ADMINISTRATOR SUBSTITUTED FOR COMMISSION

SEC. 205. (a) Section 28 of the Federal Employees' Compensation Act, as amended, is amended to read as follows:

"SEC. 28. This act shall be administered by the Administrator."

(b) Section 28a of such act is repealed, but such repeal shall not be construed to revive any independent bureau or other agency abolished by such section.

(c) (1) The word "commission" (or other designation of the commission), and the word "it" or "its" whenever they refer to the commission, in any part of such act, are struck out wherever necessary in order to give effect to subsection (a) of this section, and the words "Administrator" and "he" or "his," respectively, are inserted in lieu thereof.

(2) In addition, the phrase "or any commissioner by authority of the commission," in section 29 of such act is struck out.

OVERPAYMENTS

SEC. 206. Section 38 of the Federal Employees' Compensation Act (5 U. S. C., 1946 ed., sec. 788), is amended to read as follows:

"SEC. 38. (a) Subject to the provisions of sections 36 and 37, whenever by reason of an error of fact or law an overpayment has been made to an individual under this act, proper adjustments shall be made, under regulations prescribed by the Administrator, by decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustments shall be made by decreasing subsequent benefits, if any, payable under this act with respect to such individual's death.

"(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault and where adjustment or recovery would defeat the purpose of this act or would be against equity and good conscience.

"(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized."

SHORT TITLE

SEC. 207. The Federal Employees' Compensation Act, as amended, is further amended by adding thereto at the end thereof a new section as follows:

"SEC. 43. This act may be cited as the 'Federal Employees' Compensation Act.'"

TITLE III—TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

EXTENSION OF TIME LIMITATIONS

SEC. 301. (a) Where an individual with respect to whose disability or death compensation is claimed under the Federal Employees' Compensation Act, as amended, was injured or died outside the United States on or after December 7, 1941, and before August 11, 1946, the time limitations of such act with respect to the giving of notice of injury and the filing of a claim for compensation shall not begin to run until the date of enactment of this act.

(b) As used in this subsection, the term "United States" includes only the States, Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the Canal Zone.

COMPROMISE SETTLEMENTS—PRIVATE ACTS

SEC. 302. The provisions of this act shall not be construed to authorize the payment of any compensation under the Federal Employees' Compensation Act in any case where, pursuant to private relief legislation, a beneficiary of such legislation has accepted payment of a grant in satisfaction of the liability of the United States (or its corporation, agency, or other instrumentality) in such case, or where such liability has been compromised and settled, or other satisfaction received, as the result of any action sounding in tort or under maritime law, or where a lump sum has been received under section

14 of the Federal Employees' Compensation Act and the lump-sum award is not modified or set aside for other reasons.

EFFECTIVE OPERATION

SEC. 303. (a) Except as otherwise provided by this section or in this act, unless I and II of this act shall take effect on the date of enactment of this act and be applicable to any injury or death occurring before or after such date.

(b) The amendments made by section 101 of this act to sections 2 and 8 of the Federal Employees' Compensation Act shall not apply to any period of disability commencing before the enactment of this act.

(c) The amendments made by sections 102, 103, 105, and 106 of this act to sections 3, 4 (a), 6, 10, and 39 of the Federal Employees' Compensation Act shall be applicable to cases of injury or death occurring before enactment of this act only with respect to any period beginning on or after the first day of the first calendar month following the enactment of this act.

(d) (1) The amendments made by section 104 of this act to section 5 of the Federal Employees' Compensation Act, establishing special provisions for permanent disability involving the loss, or loss of use, of a member or function of the body, or disfigurement, shall apply retroactively to any case in which the injury occurred within 1 year prior to the enactment of this act: *Provided*, That where the injury occurred before such enactment, except in cases specified in subsection (b) of section 5 of such act, as so amended, the injured employee shall not be entitled to compensation under the schedule unless within 1 year after such date of enactment he elects to receive compensation under the schedule if so entitled: *And provided*, That in the event of such election, all amounts theretofore paid on the basis of loss of wage-earning capacity as compensation for permanent partial disability involving a loss, or loss of use, of a member or function, or disfigurement, as specified in the schedule shall be credited against any compensation awarded by reason of such amendment.

(2) No payment upon death pursuant to section 5 (d) of the Federal Employees' Compensation Act, as amended by this act, shall be made unless death occurs after such enactment. In the event of such death, the election required by paragraph (1) of this subsection shall be deemed to have been made.

(e) Section 107 of this act, amending section 11 of the Federal Employees' Compensation Act, shall apply only to deaths occurring after the enactment of this act.

(f) (1) The amendments made by section 108 of this act to the definition of the term "employee" contained in section 40 of the Federal Employees' Compensation Act shall, as to any case of injury or death occurring before the date of enactment of this act, apply only to injuries or deaths occurring on or after December 7, 1941, and compensation (including medical or other benefits) in any such case shall not be paid for any period earlier than the first day of the first month following enactment of this act and, in cases of disability caused by such an injury, shall be limited to compensation for permanent partial or permanent total disability.

(2) The time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and the filing of a claim for compensation, in any case brought within the purview of section 40 of such act by this act, shall not begin to run until the date of enactment of this act.

(g) The amendment made by section 201 of this act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such act exclusive, shall not apply to any case of injury or death occurring prior to the enactment of this act

in which liability other than that arising under such act, or any extension thereof, was finally determined prior to the enactment of this act.

(h) The amendments made by sections 203 and 204 of this act to sections 12 and 13 of the Federal Employees' Compensation Act, pertaining to the determination of the employee's pay or his wage-earning capacity, may, in the interest of justice and in the discretion of the Administrator, be applied in any case, irrespective of the date of injury or death, so as to cause payments of compensation, with respect to any period not earlier than the first day of the first month after enactment of this act, to be consistent with such amendments.

TIME LIMITATIONS NOT EXTENDED

SEC. 304. Except as otherwise expressly provided, the enactment of this act shall not suspend or defer the running, of the time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and filing of a claim for compensation.

TITLE IV

LIBERALIZATION OF MAXIMUM COMPENSATION FOR EMERGENCY RELIEF WORKERS

SEC. 401. (a) Clauses (a), (b), and (c) of the second proviso to section 1 of the act approved February 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended to read as follows:

"(a) that the aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of \$4,000 and that the monthly monetary compensation shall not in any event exceed \$100, both exclusive of medical costs;

"(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as provided by section 10 (K) of such act, the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$75 and compensation shall be payable on the basis of such pay regardless of the actual pay at the time of injury or death, except that the Federal Security Administrator may from time to time, by regulation, fix a lower minimum monthly pay as a basis for computing such compensation as to any class of individuals, specified in the fourth paragraph of section 42 of such act, as amended, who sustained injury or were killed outside the continental United States;

"(c) that the Federal Security Administrator may from time to time, subject to the above limitations, establish a special schedule of compensation for disability and for death (including a special schedule of compensation for the loss, or loss of use, of members or functions of the body), and compensation under such schedule shall be in lieu of all other compensation in such cases;"

(b) The first proviso to section 8 of the Emergency Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352, 356), and the first proviso to section 16 of the Emergency Relief Appropriation Act of 1938 (ch. 554; 52 Stat. 809, 814), are repealed.

(c) This section shall apply to any case heretofore or hereafter coming within the purview of such act of February 15, 1934, but no compensation shall, with respect to any case of injury or death occurring before the date of enactment of this act, accrue or be increased by reason of the enactment of this section for any period prior to the first day of the first month following the date of enactment of this act.

(d) The special schedule of compensation heretofore established pursuant to clause (a) of the second proviso to section 1 of such act of February 15, 1934, shall remain

in effect until superseded by a new schedule established pursuant to the amendments made by this section.

MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

SEC. 402. Effective as of July 25, 1947, paragraph a of section 2 of the act approved July 25, 1947 (ch. 327, 61 Stat. 449, 451), is amended by striking out the semicolon at the end of the provision repealing the act of July 1, 1943 (57 Stat. 371), and the act of May 14, 1942 (56 Stat. 278), as amended, and inserting in lieu thereof a colon and the following proviso: "Provided, That section 11 of such act of May 14, 1942, shall remain in effect to the extent specified in section 5 of such act of July 1, 1943;"

Mr. KELLEY (interrupting the reading of the bill). Mr. Chairman, I ask unanimous consent that the further reading of the bill be dispensed with and that it be open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Page 4, line 2, strike out "when required."
Page 11, line 13, strike out "partial" and "(b)" and, in lieu of the latter, insert "(a) of this section."

Page 12, line 13, strike out "(a)."
Page 13, line 22, strike out "for permanent total disability from injury."

Page 14, line 1, substitute "totally" for "total."

Page 14, line 4, strike out the word "total"; insert after the word "disability" the words "resulting from the injury."

Page 17, line 9, following the word "accepts", insert "after such marriage."

Page 17, line 10, following the word "compensation", strike out the words "after such marriage," and insert "to which he is not entitled."

Page 19, line 9, strike out "or."

Page 20, line 20, strike out "is", and substitute therefor "as."

Page 21, line 14, strike out the words "unless otherwise specifically provided by law."

Page 21, line 16, strike out the comma after the word "States."

Page 21, line 17, strike out the words "wholly owned by it."

Page 21, line 19, strike out the words "at law" and insert in lieu thereof the words "in a civil action."

Page 21, line 20, after the word "proceedings" insert a comma and the following words: "whether administrative or judicial."

Page 26, line 8, after the word "earnings", insert "of such employee."

Page 27, line 6, strike out "(a)."

Page 27, line 22, after the word "Administrator" insert "The Administrator is authorized to delegate to any officer or employee of the Federal Security Agency any of the powers conferred upon him by this act."

Page 28, line 1, strike out the word "Section", and insert in lieu thereof "The first and third sentences of section."

Page 28, line 2, strike out the word "is" and insert instead the word "are."

Page 29, line 21, insert the following new section:

"FEES—PUNISHMENT FOR CONTEMPT

"SEC. 208. Section 23 of such act, as amended, is further amended to read as follows:

"SEC. 23. (a) Fees for examinations made on the part of the United States under sections 21 and 22 by physicians who are not officers or employees of the United States and not under contract to the United States to render medical services to its employees shall

be fixed by the Administrator. Such fees, and any sum payable to the employee under section 21, when authorized or approved by the Administrator, shall be paid from the employees' compensation fund.

"(b) A claimant may be represented before the Administrator in any proceeding under this act by any person duly authorized by such claimant. No claim for legal services or for any other services rendered in respect of a case, claim, or award for compensation under this act, to or on account of any person, shall be valid unless approved by the Administrator. Any person who receives any fee or other consideration, or any gratuity on account of services so rendered, unless such fee, consideration, or gratuity, is so approved, or who solicits employment for himself or another in respect of any case, claim, or award for compensation under (or to be brought under) this act shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed 1 year, or by both such fine and imprisonment.

"(c) If any person in proceedings before the Administrator or his duly authorized representative disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, the Administrator or his duly authorized representative shall certify the facts to the district court having jurisdiction in the place in which he is sitting (or to the District Court of the United States for the District of Columbia if he is sitting in such district) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court."

Page 33, line 4, strike out the words "or disfigurement," and insert after the word "shall" the phrase "(A) in cases within the purview of section 5 (b) or in cases of disfigurement."

Page 33, line 16, strike out the words "in which the injury" and insert in lieu thereof the words "where the injury occurred on or after January 1, 1940, and (B) in other cases, apply retroactively to injuries which."

Page 34, line 1, strike out the words "and provided" and insert in lieu thereof "Provided further."

Page 34, line 4, strike out the word "partial."

Page 34, line 8, at the end of subsection (d) (1) insert the following new sentence: "And provided further, That any award made under the provisions of this subsection shall be payable prospectively in the same manner as though the injury occurred after the enactment of this act."

Page 36, line 12, insert a new section 305 as follows:

"ACCIDENT PREVENTION AND ANNUAL REPORTS

"SEC. 305. Section 33 of the Federal Employees' Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections '(a)' and '(b)' and by adding a new subsection designated as '(c)', as follows:

"(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government depart-

ments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this act."

Page 37, line 8, after the word "of", insert "minimum and."

The committee amendments were agreed to.

Mr. KELLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KELLEY: On page 19, line 2, strike out the following language: "(including Members of Congress and officers and employees of instrumentalities of the United States, wholly owned by the United States)", and insert in lieu thereof the following: "(including officers and employees of instrumentalities of the United States, wholly owned by the United States, but not including Members of Congress)."

The amendment was agreed to.

Mr. GRANGER. Mr. Chairman, I move to strike out the last word and ask unanimous consent to proceed out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. GRANGER. Mr. Chairman, I congratulate the committee for their labors in bringing out this very worthy piece of legislation. It is my intention to support it. I want to call the attention of the House to a condition which exists in the Western States and in all States that we call the mining States of this country. It so happened a year or two ago the Congress, unwisely, in my opinion, repealed the tariff on copper or suspended it. It was the intention as I understand at that time, that it would be reimposed after the crisis was over. However, that has not been done and it has resulted in a great injury to the mining industry of the West. That is not all that is wrong with the mining industry. The gentleman from California [Mr. ENGLE] had a bill before his Committee on Public Lands, which had for its purpose the stabilization of the mining industry. That bill is now before the Committee on Rules and as yet the Committee on Rules has not seen fit to grant a rule on it. We are in a serious condition in the mining States and if something is not done and done soon, a great many men are going to be unemployed who usually work in the mines.

Not only that, but the mines are going to be shut down and many of these properties upon which we depend for our strategic materials are going to stay closed down. Many people do not realize, perhaps, that when you shut a mine down, it fills up with water. That ruins the whole inner workings of the mine. That is what is happening at the present time. If this legislation is held in committee and not given an opportunity to be discussed, somebody must take the responsibility of closing the mines of the West.

Mr. MURDOCK. Mr. Chairman, will the gentleman yield?

Mr. GRANGER. I yield.

Mr. MURDOCK. The gentleman has used the future tense in speaking of unemployment. He should use the present tense of the verb. There is now unemployment. Some of the largest copper mines in the State of Arizona have closed down. Others have reduced their working force and their working hours. I am heartily in agreement with what the gentleman is telling the Congress.

Mr. MILLER of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. GRANGER. I yield.

Mr. MILLER of Nebraska. I know what the gentleman says is true relative to the copper industry. I am wondering if the gentleman and his party would be in favor of having a little protection by way of tariff regulation on other things besides copper coming into this country. What would be the reaction of the gentleman giving other industries of this country just a little protection under tariff regulation?

Mr. GRANGER. I think the gentleman knows pretty well my attitude in that regard, but we are dealing with a practical and serious proposition now. I am speaking to the leadership on this side of the House, who have the responsibility for this legislation. It has been heard by a legislative committee and reported out, I think, with the unanimous vote of that committee. It is being held up under the guise that it does not conform with the present program. Of course that may be true, but we are demanding that we have a hearing, and when it comes time for the President to act on it he can act as he sees fit. But I think it is absolutely essential that something is done and done immediately, if we expect to save the small mine operators, and build up a stock pile of strategic materials that will be essential at any time we need them in the future.

I am asking the chairman of the Rules Committee to call up that bill and report it to the House so that we may have action upon it.

The CHAIRMAN. The time of the gentleman from Utah [Mr. GRANGER] has expired.

Mr. HALLECK. Mr. Chairman, I move to strike out the last word. I have asked for this time in order to inquire of the majority leader if he can tell us the program for next week.

Mr. McCORMACK. I will be glad to tell the gentleman.

Of course, Monday is Independence Day, and there will be no session.

On Tuesday, H. R. 4406, the Yugoslav claims bill. Of course, we have an agreement, and I hope the Members will enable us to carry out that agreement, that if there is any roll call it will go over until Wednesday.

On Wednesday we have the Consent Calendar and the Private Calendar.

S. 1008, the basing-point bill. Permission has already been granted to take up the Consent Calendar and the Private Calendar on Wednesday. If there are any suspensions, and I know of none now, I will advise the House on Tuesday and take it up with the leadership on the Republican side.

Thursday and Friday, H. R. 2960, the rural telephone bill; H. R. 1689, salary

increase for Government heads; H. R. 3699, the Puerto Rican farm-loan bill.

Conference reports may be brought up at any time.

I want to call the attention of Members of the House that the House meets in the Ways and Means Committee room starting on Tuesday, July 5.

Mr. HERTER. Will the gentleman yield?

Mr. HALLECK. I yield.

Mr. HERTER. Can the gentleman advise us when the overtime bill will be taken up?

Mr. McCORMACK. Next week is a very busy week, and I could not get it on the program.

Mr. DONDERO. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I yield.

Mr. DONDERO. I understood the gentleman to say that we are to meet in the caucus room of the Old House Office Building?

Mr. McCORMACK. No. The caucus room in the New House Office Building, which of course is the Ways and Means Committee room.

Mr. VORYS. Mr. Chairman, will the gentleman yield?

Mr. HALLECK. I yield.

Mr. VORYS. I do not know who gave the gentleman the assurance that there might not be a roll call on the Yugoslav claims bill. There is considerable opposition to that.

Mr. McCORMACK. I did not say there was any such agreement. I said if there was a roll call I hoped it could go over until Wednesday.

Mr. VORYS. That is not a noncontroversial bill.

Mr. McCORMACK. I understood that; the gentleman and I have had some talks on this; and I am sure the gentleman has no objection to any roll call going over until Wednesday.

Mr. HALLECK. I take it then that, if we should get to the point of a vote and a roll call were imminent, that the majority leader would ask unanimous consent that the vote go over to the following day.

Mr. McCORMACK. Exactly.

Mr. HALLECK. And if consent could not be obtained, then he would simply move that the House adjourn.

Mr. McCORMACK. Exactly; I should be glad to.

Mr. CHURCH. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield.

Mr. CHURCH. Does the gentleman intend later today to take up Senate Joint Resolution 109, the bill that gives loans to veterans? The time expires tonight. The Senate resolution can be passed and become effective if it is considered today.

Mr. McCORMACK. On a matter of that kind, naturally I would consult the chairman of the committee having jurisdiction over it, just as any congressional leadership on either side would consult either the chairman of the committee in control of the bill or the ranking minority member in his absence. I want to advise the gentleman frankly that that has been done. When I have knowledge I will not withhold it. It is the present intention to permit the amendments in

the housing bill adopted yesterday covering S. 109 to go to conference.

Mr. CHURCH. Mr. Chairman, will the gentleman yield further?

Mr. McCORMACK. Certainly.

Mr. CHURCH. If Senate Joint Resolution 109 is brought up today and passed there can be no opposition to it, and then there will be no question of the legality of those loans. The leadership should pass it.

Mr. McCORMACK. There will be no difficulty in connection with the continuance of the activities of the agencies. My friend need not feel disturbed on that. The fact that my friend is so concerned over the legislation naturally creates an honest and justifiable suspicion in the minds of those who are proponents of the housing legislation, and that in no way impugns the very noble motives I am quite sure the gentleman has in trying to pressure us into action now.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. WHITE of California. Mr. Chairman, I move to strike out the last word and ask unanimous consent to speak out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WHITE of California. Mr. Chairman, I take this time to make a brief explanation of a very important bill which I am dropping into the hopper at this time.

This bill provides for the consolidation of the civil functions of the Army engineers and the United States Bureau of Reclamation.

This is the most important reorganization procedure of all those recommended under the entire reorganization plan. As most of you will recall, the majority leader mentioned on the floor of the House a few days ago the fact that those who supported the Army engineers were holding up the entire reorganization bill. The conference committee fight on that bill was over the concessions that were desired on the part of those who supported the Army engineers. The bill I am today introducing will bring about a consolidation which is the most important part of the entire Hoover Commission report. Many of you have received letters and telegrams from your constituents urging you to support the findings of the Hoover Commission. I am anxious to see just how sincere a lot of people are on this reorganization proposition. Here is the test, right here in this bill, and I hope all the Members of the House will support it.

Mr. WADSWORTH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WADSWORTH. On page 17, line 21, strike out "\$400" and insert "\$250."

Mr. WADSWORTH. Mr. Chairman, of course, everyone in the Chamber who listened to the Clerk read the amendment understands what it does. I am in complete accord with every provision of this bill except that covering the funeral allowance. I fear we are establishing a precedent here that will plague us.

Under existing law for a veteran who dies, and he may die as the result of a service-connected injury after he has been discharged, there is a funeral allowance of \$150. I do not believe we ought to make such a spread between the veteran at one end of the line, the \$150, and the civilian employee of the Government, \$400. Inevitably, Mr. Chairman, a drive will take place to raise the \$150 to \$400, and there are 18,000,000 potential beneficiaries. We are dealing in enormous figures. We are committing the Government by the establishment of a precedent of this sort to a tremendous expenditure just as sure as we are sitting in this Chamber. I cannot understand how it is that the committee which otherwise has done an excellent job failed, as the members of the committee have confessed that they failed, to give any consideration or even to inquire what the veteran's funeral allowance is. I do not mean to say unkind things, but practical minded men on this floor know that the undertaker will get the whole \$400.

Mr. KEARNEY. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield to the gentleman from New York.

Mr. KEARNEY. I was going to advance the thought the distinguished gentleman from New York has just stated, that where the veteran's funeral allowance is \$150, and where the attempt is made to increase this from \$200 to \$400, there is not any question in my mind, as I have seen these cases come on from time to time, that the undertaker does get it all.

Mr. WADSWORTH. The undertaker gets it all. Do not labor under the delusion that the family is going to get the \$400.

Mr. STEFAN. Mr. Chairman, will the gentleman yield.

Mr. WADSWORTH. I yield to the gentleman from Nebraska.

Mr. STEFAN. What is the figure in the gentleman's amendment?

Mr. WADSWORTH. I have suggested a compromise of \$250, which is high enough.

Mr. STEFAN. Would the gentleman accept an amendment making it the same as the veteran gets?

Mr. WADSWORTH. I would not object to that, but under existing law, as I understand it, the civil employee's funeral allowance is \$200. That is in the law as it stands today. I have suggested an increase of \$50 but not up to \$400.

Mr. McCONNELL. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I yield to the gentleman from Pennsylvania.

Mr. McCONNELL. I can appreciate the reason for the gentleman's offering this amendment, I can understand his concern with the difference between what is mentioned here, \$400, and the \$150 for veterans; however, there is one other thought. We believe that the \$200 should certainly be increased in line with the entire thought of this bill. There has been no change in the Employees' Compensation Act for 22 years.

Mr. WADSWORTH. That is right.

Mr. McCONNELL. There have been great changes in the purchasing value

of the dollar. Much of the purpose of this bill is to correct the amounts allowed by the act and adjust them to changes in economic conditions; therefore if it is \$200 in an act which is 22 years old, you may say, and it has been 22 years since changes were made, it is my opinion it would be logical to assume there should be an increase in the amount of funeral benefits, which should be in line with the change in the value of the dollar and I would say that would be more than \$50 as suggested by the gentleman's amendment.

Mr. WADSWORTH. I might subscribe to the argument presented by the gentleman from Pennsylvania were I not convinced that the family will never see the \$400. The undertakers will get it all. What you are doing is giving the undertakers more money.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. KELLEY. Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, the gentleman from New York stresses the point that the family of a deceased veteran receives \$150 for funeral expenses. This \$400 is a piece of legislation that is for an entirely different purpose. It is for the death of a Federal civilian employee whose death is brought about by reason of his employment. It is very likely that in most cases it will be an accidental death or by reason of an accident that would contribute to his death. In the case of a veteran, regardless of how death ensues, funeral expenses of \$150 are paid. Also, if the veteran's family receives \$150 from the Veterans' Administration, the chances are that he is employed and he is covered by workmen's compensation by some employer, or by reason of the laws of the State in which he lives. So therefore, I cannot see the connection between the \$150 paid for the death of a veteran and the Federal civilian employee who is killed or dies as the result of his employment.

The gentleman from New York also says that this would establish a precedent. Well, he need not worry about that, because the precedent has already been established in the Longshoremen's Act that gives \$400 in the case of death which results from his employment.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. BURKE. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I also would like to speak in opposition to the amendment offered by the gentleman from New York [Mr. WADSWORTH] for this reason: What he says about the greater amount of this benefit going to the undertaker is true. That is what it is for. It is an allowance for funeral expenses. The family is to receive compensation under the schedule set out in the bill in the event of the death of the individual worker. I cannot understand the talk about 18,000,000 potential payments. According to the statistics that were presented to the committee, I believe there were in the neighborhood of an average of 200 or 250 deaths a year that resulted in the

course of and arising out of the employment of the individual.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. BURKE. I yield to the gentleman from New York.

Mr. WADSWORTH. When I mentioned the 18,000,000 potential claims, I was referring to the veterans; inasmuch as one group of people have this \$400, they will immediately begin to say, "We should have as much as \$18,000,000."

Mr. BURKE. Oh, I see. The committee, in arriving at this \$400 figure, took, first of all, into consideration the fact that \$200 is the amount set out in the present act, and then looked at similar legislation adopted by the Congress—and I do not know which Congress adopted the Longshoremen's Workmen's Compensation Act—and noted that the amount set aside for funeral expenses was \$400. So it is the same type of legislation covering the same general purposes, and the committee felt that the \$400 was a justified amount. If it was justified in one act, it is justified in the other, and certainly the increased cost of that piece of service, in that type of funeral-expense service that is given, is justified by the increase that the committee sets forth in this bill. Therefore, I believe that all arguments point in the direction of the adoption of the bill itself, and I would like to reiterate or reemphasize my opposition to the amendment offered by the gentleman from New York.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. JACOBS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am not presently aware of what the allowance for the burial of a veteran is, but I am under the impression that there is a fixed allowance to bury a veteran regardless of what occasioned his death.

I do not propose to dwell on whether or not the allowance for the burial of a veteran is adequate or inadequate, because it is not germane to this bill. The question before the House today is, What is an adequate sum to bury a person? One who has lost his life in an accident arising out of his employment with the Government is entitled to be buried at the Government's expense.

I dare say that most of the men on this floor today have paid funeral bills at some time in their life. If you have, you know that \$400 is not an excessive amount to pay for a decent funeral. I am not prepared to and will not advocate the waste of any of the Government's money, but I do not believe the United States Government has gotten so poor that it cannot afford to pay for a decent burial for those who are killed in the course of their employment by the Government.

The question of what the allowance is to the veteran is not germane to the subject that is being discussed here at all, because the question is, What does it cost for a decent burial today? I do not think \$400 is excessive. We must meet the question of the veterans' allowance when, as, and if it comes up. I say to you that if it is not adequate and the Government owes an increase in the al-

lowance for the veteran's funeral, I for one will vote for it. If I think it is adequate under all the circumstances, I will vote against it. But there is not a man here today that does not know that it takes at least \$400 to give a person a decent burial, and there is not a man here who does not know that the people of the United States are willing and able to furnish a decent burial to anyone who dies in its service.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. WADSWORTH].

The question was taken; and on a division (demanded by Mr. JENKINS) there were—ayes 22, noes 28.

So the amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. MCCORMACK, having assumed the chair, Mr. DEANE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes, pursuant to House Resolution 265, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gross.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

COMMITTEE ON THE JUDICIARY

Mr. HOBBS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight to file reports on certain bills which were approved today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

EXTENSION OF REMARKS

Mr. BUCHANAN asked and was given permission to extend his remarks at this point in the RECORD.

THE HOUSING BILL

Mr. BUCHANAN. Mr. Speaker, during the remarks of the distinguished majority leader [Mr. MCCORMACK] on the housing bill yesterday, the gentleman from Ohio [Mr. SMITH] disputed the statement of the majority leader that the low-

rent public housing projects which will be assisted under the housing bill will be entirely locally owned. The gentleman from Ohio [Mr. SMITH] insisted that the majority leader was mistaken in making that statement.

Mr. Speaker, it was the gentleman from Ohio [Mr. SMITH] who was completely mistaken on this point. Under H. R. 4009, as well as under the existing public housing program, projects are owned by the local housing authorities which initiate and operate them from the outset. The Federal Government functions exclusively as banker and guarantor of the annual contributions for the project and could acquire ownership only if the local authority should default on its obligation or its contractual commitments. Furthermore, after the bonds financing the project have been fully amortized, the local housing authority would continue to own them free and clear of any debt and the Federal Government's liability and supervisory relationship would cease. Under H. R. 4009, it is expected that this amortization period will be completed within 29 to 33 years.

Mr. Speaker, during the debate yesterday the gentleman from Massachusetts [Mr. HERTER] also attempted to reply to the remarks of the majority leader by claiming that the aggregate annual contributions for public housing to be paid under H. R. 4009 will greatly exceed the construction costs of the projects and that the only honest way to develop such projects would be through 100 percent direct capital grants by the Federal Government to cover the full development cost of the projects. In making these claims, the gentleman from Massachusetts [Mr. HERTER] was confused both in his arithmetic and in his understanding of the housing legislation. On the basis of 810,000 housing units of public housing, the maximum development cost which would be permitted by the housing bill would be \$6,844,000,000. If the Federal Government were to make 100 percent capital grants up to this amount, this \$6,844,000,000 would clearly be an addition to the Federal debt and would result in a corresponding increase in the annual interest charges payable on that debt. Somehow the gentleman from Massachusetts [Mr. HERTER] completely overlooked the cost of money to the Federal Government. On the other hand, reasonable estimates of the probable annual contributions which would be required for 810,000 public-housing units range between \$6,900,000,000 and \$7,850,000,000 over a period of 29 to 33 years. When those aggregate figures are discounted at 2½ percent, which represents the cost of long-term money to the Federal Government, the present value of the actual contributions which will be paid on that housing ranges between \$4,850,000,000 and \$5,300,000,000, or substantially less than the development cost of the projects.

YUGOSLAV CLAIM BILL

Mr. VORYS. Mr. Speaker, I ask unanimous consent for permission to file minority views on the bill H. R. 4406, the Yugoslav claim bill. I had previously obtained such permission, thinking that it had been granted in such form as to be

continuing, but am renewing my request in the event of any doubt.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

EXTENSION OF REMARKS

Mr. GAMBLE asked and was given permission to extend his remarks in the RECORD and include extraneous matter.

Mrs. ROGERS of Massachusetts asked and was given permission to revise and extend her remarks in the RECORD and include certain material.

Mr. RANKIN asked and was given permission to revise and extend the remarks he made today and include certain newspaper articles.

Mr. O'HARA of Illinois asked and was given permission to revise and extend his remarks in the RECORD.

EXTENDING BENEFITS TO PART-TIME EMPLOYEES

Mr. McSWEENEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 259, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H. R. 2619) to extend the benefits of the annual and sick leave laws to part-time employees on regular tours of duty and to validate payments heretofore made for leave on account of service of such employees. That after general debate which shall be confined to the bill and continue not to exceed 1 hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. McSWEENEY. Mr. Speaker, I reserve one-half hour for my own use and yield half an hour to the gentleman from New York [Mr. WADSWORTH].

Mr. Speaker, as the Clerk has read, this bill makes available to people who are, what we call, part-time employees, some of the benefits that have been accruing to people who are regular employees of the Government. As this will probably be your and my last official act in this old Chamber as we now know it, I would like to have you give consideration to a bill which I feel does justice to a great portion of the employees in the Federal Government.

May I digress long enough to say that I hope that with the remodeling and changing of this room it will not lose many of its fine traditional aspects, and that I can still look up and see the seal of the State of Ohio, as Members from other States may look up and see the seals of their respective States.

So, this being the last official act in this Chamber as we now know it, we have reported this bill to you to do justice to

81ST CONGRESS
1ST SESSION

H. R. 3191

IN THE SENATE OF THE UNITED STATES

JULY 1 (legislative day, JUNE 2), 1949

Read twice and referred to the Committee on Labor and Public Welfare

AN ACT

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Employees' Com-
4 pensation Act Amendments of 1949".

5 TITLE I—SUBSTANTIVE AMENDMENTS

6 WAITING PERIOD MODIFIED

7 SEC. 101. (a) Section 2 of the Act approved September
8 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act

1 referred to as the "Federal Employees' Compensation Act"),
2 as amended (5 U. S. C., 1946 edition, sec. 752), is hereby
3 amended to read as follows:

4 "SEC. 2. That with respect to the first three days of
5 temporary disability the employee shall not be entitled to
6 compensation except as provided in section 9, unless such
7 disability exceeds twenty-one days in duration or is followed
8 by permanent disability."

9 (b) Section 8 of such Act (5 U. S. C., 1946 edition,
10 section 758), is amended to read as follows:

11 "SEC. 8. If at the time the disability begins the em-
12 ployee has annual or sick leave to his credit he may use
13 such leave until it is exhausted, in which case his compensa-
14 tion for disability shall not begin, and the time periods speci-
15 fied in section 2 shall not begin to run, until the annual or
16 sick leave has ceased."

17 BASIC BENEFIT FOR TOTAL DISABILITY

18 SEC. 102. Section 3 of the Federal Employees' Com-
19 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
20 753), is hereby amended to read as follows:

21 "SEC. 3. (a) Except as otherwise provided in this
22 Act, if the disability is total the United States shall pay to
23 the disabled employee during such disability a monthly
24 monetary compensation equal to $66\frac{2}{3}$ per centum of his

1 monthly pay, which shall be known as his basic compensation
2 for total disability.

3 “(b) Loss, or loss of use, of both hands, or both arms,
4 or both feet, or both legs, or both eyes or the sight thereof,
5 or of any two thereof shall, prima facie, constitute permanent
6 total disability.”

7 BASIC BENEFIT FOR PARTIAL DISABILITY

8 SEC. 103. (a) Section 4 of the Federal Employees’
9 Compensation Act, as amended (5 U. S. C., 1946 edition,
10 sec. 754), is further amended to read as follows:

11 “SEC. 4. (a) (1) Except as otherwise provided in
12 this Act, if the disability is partial the United States shall
13 pay to the disabled employee during such disability a
14 monthly monetary compensation equal to $66\frac{2}{3}$ per centum
15 of the difference between his monthly pay and his monthly
16 wage-earning capacity after the beginning of such partial
17 disability, which shall be known as his basic compensation
18 for partial disability.

19 “(2) The Administrator may require a partially dis-
20 abled employee to make an affidavit or other report, in such
21 manner and at such times as the Administrator may specify
22 as to his earnings, whether from employment or self-em-
23 ployment. In such affidavit or other report the em-
24 ployee shall include the value of housing, board, lodging,

1 and other advantages which are part of his remunera-
2 tion for employment or are earnings in self-employment
3 and which can be estimated in money. If such indi-
4 vidual, when required, fails to make such affidavit or other
5 report, or if in such affidavit or report the employee know-
6 ingly omits or understates any part of such earnings or
7 remuneration, he shall forfeit his right to compensation
8 with respect to any period for which such report was re-
9 quired to be made, and such compensation, if already paid,
10 shall be recovered by deducting the amount thereof from
11 the compensation payable to him or otherwise recovered in
12 accordance with section 38, unless such recovery is waived
13 pursuant to such section.

14 “(b) If a partially disabled employee refuses to seek
15 suitable work or refuses or neglects to work after suitable
16 work is offered to, procured by, or secured for him, he shall
17 not be entitled to any compensation.”

18 (b) Section 39 of such Act (5 U. S. C., 1946 edition,
19 sec. 789), is amended by inserting, after “affidavit” the
20 words “or report”.

21 SCHEDULED DISABILITIES

22 SEC. 104. Section 5 of the Federal Employees’ Com-
23 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
24 755), is amended to read as follows:

25 “SEC. 5. (a) In any case of permanent disability which

1 involves solely the loss, or loss of use, of a member or func-
2 tion of the body, or disfigurement, as provided in the follow-
3 ing schedule, basic compensation for such disability shall, in
4 addition to compensation for any temporary total or tem-
5 porary partial disability, be payable to the disabled em-
6 ployee for the period specified in such schedule at the rate
7 of $66\frac{2}{3}$ per centum of his monthly pay and shall, except as
8 otherwise provided in subsection (b), be in lieu of compen-
9 sation for such permanent disability under the preceding
10 sections of this Act:

11 “(1) Arm lost, three hundred and twelve weeks’
12 compensation.

13 “(2) Leg lost, two hundred and eighty-eight
14 weeks’ compensation.

15 “(3) Hand lost, two hundred and forty-four weeks’
16 compensation.

17 “(4) Foot lost, two hundred and five weeks’
18 compensation.

19 “(5) Eye lost, one hundred and sixty weeks’ com-
20 pensation.

21 “(6) Thumb lost, seventy-five weeks’ compensa-
22 tion.

23 “(7) First finger lost, forty-six weeks’ compen-
24 sation.

1 “(8) Great toe lost, thirty-eight weeks’ compen-
2 sation.

3 “(9) Second finger lost, thirty weeks’ compensa-
4 tion.

5 “(10) Third finger lost, twenty-five weeks’ com-
6 pensation.

7 “(11) Toe other than great toe lost, sixteen weeks’
8 compensation.

9 “(12) Fourth finger lost, fifteen weeks’ compen-
10 sation.

11 “(13) Loss of hearing: (A) Complete loss of
12 hearing of one ear, fifty-two weeks’ compensation; (B)
13 complete loss of hearing of both ears, two hundred
14 weeks’ compensation.

15 “(14) Binocular vision or percentage of vision:
16 Compensation for loss of binocular vision or for 80
17 per centum or more of the vision of an eye shall be the
18 same as for the loss of the eye.

19 “(15) Phalanges: Compensation for loss of more
20 than one phalanx of a digit shall be the same as for
21 loss of the entire digit. Compensation for loss of the
22 first phalanx shall be one-half of the compensation for
23 loss of the entire digit.

24 “(16) Amputated arm or leg: If, in the case of an
25 arm or a leg, the member is amputated above the wrist

1 or ankle, compensation shall be the same as for the
2 loss of the arm or leg, respectively.

3 “(17) Two or more digits: Compensation for loss,
4 or loss of use, of two or more digits, or one or more
5 phalanges of each of two or more digits, of a hand or
6 foot, shall be proportioned to the loss of use of the hand
7 or foot occasioned thereby.

8 “(18) Total loss of use: Compensation for per-
9 manent total loss of use of a member shall be the same
10 as for loss of the member.

11 “(19) Partial loss or partial loss of use: Compensa-
12 tion for permanent partial loss or loss of use of a member
13 may be for proportionate loss or loss of use of the mem-
14 ber. The degree of loss of vision or hearing under this
15 schedule shall be determined without regard to cor-
16 rection.

17 “(20) In any case in which there shall be a loss
18 or loss of use, of more than one member or parts of more
19 than one member as enumerated herein, the award of
20 compensation shall be for the loss, or loss of use, of each
21 such member or part thereof, which awards shall run
22 consecutively, except that where the injury affects only
23 two or more digits of the same hand or foot, subpara-
24 graph (17) of this schedule shall apply, and that where

partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.

“(21) Disfigurement: Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

“(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision), or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual’s basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be $66\frac{2}{3}$ per centum of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is total or as provided in subsection (a) of section 4 if the disability is partial.

“(c) The period of compensation payable under the

1 schedule to subsection (a) of this section on account of any
2 injury shall be reduced by the period of compensation paid
3 or payable under such schedule on account of a prior injury
4 if compensation in both cases is for disability of the same
5 member or function, or different parts of the same member
6 or function, or for disfigurement, and the Administrator
7 finds that compensation payable on account of the subse-
8 quent disability in whole or in part would duplicate the
9 compensation payable on account of the preexisting dis-
10 ability. In such cases, for the purposes of disabilities speci-
11 fied in subsection (b), compensation for disability continuing
12 after the scheduled period shall commence upon expiration
13 of such period as reduced under this subsection.

14 “(d) (1) If an individual who has sustained disability
15 compensable under subsection (a) (including any disability
16 compensable under the schedule to subsection (a) by virtue
17 of subsection (b)), and who has filed a valid claim in his
18 lifetime, dies, from causes other than the injury, before the
19 expiration of the compensable period specified in such
20 schedule, the compensation specified in such schedule and
21 unpaid at the individual's death, whether or not accrued or
22 due at his death, shall be paid, under an award made before
23 or after such death, for the period specified in such schedule,
24 to and for the benefit of the persons then in being within

1 the classes and in the proportions and upon the conditions
2 specified in this subsection and in the order named:

3 “(A) to the widow (as defined in section 10 (H))
4 or wholly dependent widower (as specified in section
5 10 (B)), if there is no child (as so defined) under
6 the age of eighteen or incapable of self-support; or

7 “(B) if there are both such a widow or widower
8 and such a child or children, one-half to such widow or
9 widower and the other half to such child or children; or

10 “(C) if there is no such widow or widower but
11 such a child or children, then to such child or children;
12 or

13 “(D) if there is no survivor in the above classes,
14 then to the parent or parents wholly or partly dependent
15 for support upon the decedent, or to other wholly or
16 partly dependent relatives listed in section 10 (F), or
17 to both, in such proportions as may be provided by
18 regulation; or

19 “(E) if there is no survivor in any of the above
20 classes, and no burial allowance is payable under section
21 11, then such amount, not exceeding the amount which
22 would be expendable under section 11 if such section
23 were applicable, shall be paid to reimburse any person
24 or persons, equitably entitled thereto, to the extent and
25 in the proportions that they shall have paid the ex-

penses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

“(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual’s death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent disability specified in subsection (a) of this section, even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

“(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

“(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would

1 have been payable to him had such entitlement continued
 2 shall be payable to the surviving beneficiary or beneficiaries,
 3 if any, within the same class or, if there are none, then to
 4 the beneficiary or beneficiaries next entitled to priority under
 5 such paragraph.”

6 ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM
 7 BENEFIT AMOUNT—DEPENDENTS’ BENEFITS, AND SO
 8 FORTH

9 SEC. 105. Section 6 of the Federal Employees’ Com-
 10 pensation Act, as amended (5 U. S. C., 1946 edition,
 11 sec. 756), is further amended to read as follows:

12 “SEC. 6. (a) (1) While the disabled employee has
 13 one or more dependents, his basic compensation for dis-
 14 ability payable under section 3 or section 5 (a) (including
 15 compensation payable under the schedule to section 5 (a)
 16 by virtue of section 5 (b)) shall be augmented at the rate
 17 of $8\frac{1}{3}$ per centum of his monthly pay, and his basic com-
 18 pensation for disability payable under section 4 (a) shall be
 19 augmented at the rate of $8\frac{1}{3}$ per centum of the difference
 20 between his monthly pay and his monthly wage-earning
 21 capacity.

22 “(2) As used in this subsection, the term ‘dependent’
 23 shall mean any of the following:

24 “(A) A wife, if (i) she is a member of the same
 25 household as the employee or is receiving regular con-

1 tributions from him toward her support, or (ii) he has
2 been ordered by any court to contribute to her support.

3 “(B) A husband, if wholly dependent by reason of
4 his own physical or mental disability upon the employee
5 for support.

6 “(C) An unmarried child (as defined in section
7 10 (H)), while such child (i) is under eighteen years
8 of age or, if over eighteen, is incapable of self-support
9 by reason of mental or physical disability, and (ii) is
10 living with the employee or receiving regular contribu-
11 tions toward his support from the employee.

12 “(D) A parent (as defined in section 10 (H)),
13 while wholly dependent upon and supported by the
14 employee.

15 “(b) (1) In addition to the monthly compensation
16 otherwise specified in this Act, the Administrator may pay
17 an injured employee, who has been awarded compensation,
18 an additional sum of not more than \$75 a month, as the
19 Administrator may deem necessary, when the Administrator
20 shall find that the service of an attendant is necessary con-
21 stantly to be used by reason of the employee’s being totally
22 blind, or having lost both hands or both feet or the use
23 thereof, or being paralyzed and unable to walk, or by reason
24 of other disability resulting from the injury actually render-
25 ing him so helpless as to require constant attendance.

1 “(2) The Administrator may pay to any disabled in-
2 dividual who is undergoing vocational rehabilitation pursuant
3 to the Administrator’s direction under section 9 (b) addi-
4 tional compensation necessary for his maintenance, but not
5 to exceed \$50 per month.

6 “(c) Except as otherwise authorized under section 42,
7 the monthly rate of compensation for total disability, includ-
8 ing any augmented compensation payable by reason of sub-
9 section (a) but not including any sum payable by reason
10 of subsection (b), shall not be less than \$112.50 per month,
11 unless the employee’s monthly pay is less in which case his
12 monthly rate of compensation shall be equal to his full
13 monthly pay.

14 “(d) (1) In the case of any person who at the time
15 of the injury was a minor or employed in a learner’s capacity
16 and who, prior to the injury, was not physically or mentally
17 handicapped, the Administrator shall, on any review under
18 section 37 after the time when the wage-earning capacity
19 of such person would probably, but for the injury, have in-
20 creased, prospectively recompute the monetary compensation
21 payable for disability on the basis of an assumed monthly
22 pay corresponding to such probable increased wage-earning
23 capacity. The Administrator may, on any review under
24 section 37 after a disabled employee has attained the age
25 of seventy years and the wage-earning capacity of the dis-

1 abled employee would probably, aside from and inde-
 2 pendently of the effects of the injury, have decreased on
 3 account of old age, prospectively recompute the monetary
 4 compensation payable for disability on the basis of an as-
 5 sumed monthly pay corresponding to such probable decreased
 6 wage-earning capacity.

7 “(2) If a disabled individual, without good cause, fails
 8 to apply for and undergo vocational rehabilitation when so
 9 directed pursuant to section 9 (b), and the Administrator,
 10 upon review under section 37, finds that in the absence of
 11 such failure the individual’s wage-earning capacity would
 12 probably have substantially increased, the Administrator may
 13 prospectively reduce the individual’s monetary compensa-
 14 tion in accordance with what would probably have been
 15 his wage-earning capacity in the absence of such failure,
 16 until the individual in good faith complies with the Admin-
 17 istrator’s direction.”

18 INCREASE IN DEATH BENEFITS, AND SO FORTH

19 SEC. 106. (a) Section 10 of the Federal Employees’
 20 Compensation Act, as amended (5 U. S. C., 1946 edition,
 21 sec. 760), is further amended by striking out “66 $\frac{2}{3}$ ” wher-
 22 ever it occurs and inserting in lieu thereof “75”; by striking
 23 out “35” in clauses (A) and (B) and inserting in lieu
 24 thereof “45”; by striking out in clause (C) the words
 25 “the compensation payable under clause (A) or clause

1 (B)” and inserting in lieu thereof “40 per centum”; by
2 striking out “10” in clauses (C) and (D) and inserting
3 in lieu thereof “15”; and by striking out “25” in clause
4 (D) and inserting in lieu thereof “35”.

5 (b) Clause (K) of such section, as amended, is further
6 amended to read as follows:

7 “(K) In computing compensation under this sec-
8 tion the monthly pay shall be considered not to be less
9 than \$150, but the total monthly compensation shall
10 not exceed the monthly pay computed as provided in
11 section 12.”

12 (c) Clause (B) of such section, as so amended, is
13 further amended to read as follows:

14 “(B) To the widower, if there is no child, 45
15 per centum if wholly dependent for support, by reason
16 of his physical or mental disability, upon the deceased
17 employee at the time of her death. This compensation
18 shall be paid until his death or marriage or until he
19 becomes capable of self-support.”

20 (d) Such section, as so amended, is further amended
21 by striking out the second sentence of clause (C), the last
22 sentence of clause (D), and the last sentence of clause (G).

23 (e) Clause (L) of such section, as so amended, is
24 amended to read as follows:

25 “(L) If any person entitled to compensation under

1 this section or section 5 or 6, whose compensation by
2 the terms of this or of such other section ceases or is
3 to be reduced upon his marriage or upon the marriage
4 of his dependent, accepts after such marriage any pay-
5 ments or compensation to which he is not entitled, he
6 shall be punished by a fine of not more than \$2,000
7 or by imprisonment for not more than one year, or by
8 both such fine and imprisonment.”

9 LIBERALIZATION OF BURIAL PAYMENTS

10 SEC. 107. Section 11 of the Federal Employees’ Com-
11 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
12 761), is further amended to read as follows:

13 “SEC. 11. If death results from the injury the United
14 States shall pay, to the personal representative of the de-
15 ceased employee or otherwise, funeral and burial expenses
16 not to exceed \$400, in the discretion of the Administrator.
17 In the case of an employee whose home is within the United
18 States, if his death results from the injury while he is away
19 from his home or official station or is outside of the United
20 States, or if his death results from other causes while he is
21 away from his home or official station for the purpose of
22 receiving medical or other services, appliances, or supplies
23 under section 9 or examination under section 21, and if so
24 desired by his relatives, the body shall, in the discretion of

1 the Administrator, be embalmed and transported in a
2 hermetically sealed casket to the home or last place of resi-
3 dence of the employee at the expense of the employees'
4 compensation fund. If, in such cases, request for return of
5 the body is not made by the decedent's relatives, the Admin-
6 istrator may provide for the disposition of the remains and
7 incur, and cause payment from the employees' compensation
8 fund of, such necessary transportation, funeral, and burial
9 expenses as under the circumstances shall be reasonable."

10 EXTENSION OF COVERAGE, AND SO FORTH

11 SEC. 108. (a) Section 40 of the Federal Employees'
12 Compensation Act, as amended (5 U. S. C., 1946 edition,
13 sec. 790), is further amended, by designating the para-
14 graphs thereof, following the introductory phrase, as para-
15 graphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)",
16 and "(h)", respectively.

17 (b) Paragraph (b) of such section, as so designated,
18 defining the term "employee", is further amended to read
19 as follows:

20 "(b) The term 'employee' includes (1) all civil offi-
21 cers and employees of all branches of the Government of
22 the United States (including officers and employees of in-
23 strumentalities of the United States wholly owned by the
24 United States but not including Members of Congress) ; (2)
25 commissioned officers of the Regular Corps of the Public

1 Health Service; (3) officers in the Reserve of the Public
2 Health Service on active duty; (4) persons rendering per-
3 sonal services of a kind similar to those of civilian officers
4 or employees of the United States to any department,
5 independent establishment, or agency thereof (including in-
6 strumentalities of the United States wholly owned by it),
7 without compensation or for nominal compensation, in any
8 case in which acceptance or use of such services is author-
9 ized by an Act of Congress or in which provision is made
10 by law for payment of the travel or other expenses of
11 such person; and (5) persons, other than independent con-
12 tractors and their employees, employed on the Menominee
13 Indian Reservation in the State of Wisconsin, subsequent
14 to September 7, 1916, in operations conducted pursuant
15 to the Act entitled 'An Act to authorize the cutting of
16 timber, the manufacture and sale of lumber, and the preser-
17 vation of the forests on the Menominee Indian Reservation
18 in the State of Wisconsin', approved March 28, 1908, as
19 amended, or any other Act relating to tribal timber and
20 logging operations on the Menominee Reservation."

21 (c) Paragraph (c) of such section, as so designated
22 defining the term "commission", is further amended by
23 inserting "former" after the words "to the" and by striking
24 out the words "provided for in section 28".

25 (d) Paragraph (f) of such section, as so designated,

1 defining the term "monthly pay", is further amended by
2 inserting, immediately before the period, the following:
3 "except when otherwise determined under section 6 (d)
4 with respect to any period".

5 (e) Such section is further amended by adding thereto
6 a new paragraph "(i)" reading as follows:

7 "(i) The term 'Administrator' means the Federal
8 Security Administrator."

9 INCREASE OF COMPUTATION BASE WHERE INJURY

10 OCCURRED BEFORE JULY 1, 1946

11 SEC. 109. Notwithstanding any other provision of this
12 Act or of the Federal Employees' Compensation Act, the
13 monthly pay upon the basis of which compensation for dis-
14 ability or death is computed under the Federal Employees'
15 Compensation Act, as amended, shall, effective on the
16 first day of the first calendar month following enactment of
17 this Act, be increased by 40 per centum if the injury (or injury
18 causing death) occurred before January 1, 1941, or by 10
19 per centum if the injury (or injury causing death) occurred
20 on or after such date but before July 1, 1946, except that
21 such increase shall in neither event exceed \$50. This sec-
22 tion shall apply to any case of death caused by such an
23 injury, regardless of whether such death occurs or occurred
24 before or after the enactment of this Act.

TITLE II—TECHNICAL AMENDMENTS

EXCLUSIVENESS OF REMEDY

SEC. 201. Section 7 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 757), is further amended by inserting the designation "(a)" immediately before the first sentence thereof and by adding to such section a new subsection reading as follows:

"(b) The remedy afforded to any person under this Act with respect to his own injury or the death of another individual shall be the exclusive remedy against, and be in place of any other legal liability of the United States or any of its instrumentalities on account of such injury or death, where such liability is determinable by direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute."

SEC. 202. Section 9 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 759), is amended by inserting before the first sentence thereof the designation "(a)" and by adding at the end of such section a new subsection reading as follows:

"(b) The Administrator may direct any permanently

1 disabled individual whose disability is compensable under
2 this Act to undergo vocational rehabilitation and shall make
3 provision for furnishing vocational rehabilitation services in
4 such cases. In providing for such services, the Administra-
5 tor shall, insofar as practicable, utilize the services or facilities
6 of State agencies (or corresponding agencies in Territories
7 or possessions) cooperating with him in carrying out the
8 purposes of the Vocational Rehabilitation Act, as amended,
9 except to the extent that the Administrator provides for
10 furnishing such services under subsection (a) of this section.
11 The cost of providing such services to individuals under-
12 going vocational rehabilitation pursuant to such direction
13 shall be paid from the employees' compensation fund, ex-
14 cept that in reimbursing any State agency (or correspond-
15 ing agency of a Territory or possession) under any arrange-
16 ment pursuant to this subsection there shall be excluded
17 any cost to such agency reimbursable in full under section 3
18 (a) (4) of the Vocational Rehabilitation Act, as amended."

19 COMPUTATION OF PAY

20 SEC. 203. Section 12 of the Federal Employees' Com-
21 pensation Act (5 U. S. C., 1946 edition, sec. 762) is
22 amended to read as follows:

23 "SEC. 12. (a) In computing monetary compensation
24 for disability or death upon the basis of monthly pay, such

1 pay shall be determined in accordance with the provisions
2 of this section.

3 “(b) The value of subsistence and quarters, and of any
4 other form of remuneration in kind for services if its value can
5 be estimated in money, shall be included as part of the pay.
6 Overtime pay, or additional pay or allowance authorized
7 outside the United States because of differential in cost of
8 living or other special circumstance, or bonus or premium
9 pay for extraordinary service (including amounts paid as
10 bonus for particularly hazardous service in time of war)
11 shall not be taken into account. The term ‘overtime pay’,
12 as used in this subsection, means pay for hours of service in
13 excess of those of a statutory or other basic workweek, or
14 other basic unit of work time, as observed by the establish-
15 ment in which the employee is employed.

16 “(c) (1) The monthly pay at the time of injury shall
17 be deemed to be one-twelfth of the employee’s average an-
18 nual earnings at that time, except that when compensation
19 is paid upon a weekly basis, the weekly equivalent of such
20 monthly pay shall be deemed to be one-fifty-second of such
21 average annual earnings: *Provided*, That, for so much of the
22 period of total disability as does not exceed ninety calendar
23 days from the date of the beginning of compensable disability,
24 the compensation may, in the discretion of the Administrator,

1 be computed on the basis of the employee's actual daily wage
2 at the time of injury and in that event he may be paid com-
3 pensation for such days as he would have worked but for the
4 injury.

5 “(2) Average annual earnings shall be determined as
6 follows:

7 “(A) If the employee worked in the employment
8 in which he was working at the time of his injury
9 during substantially the whole of the year immediately
10 preceding such injury, his average annual earnings
11 shall consist of the product obtained by multiplying
12 his daily wage for the particular employment, or the
13 average thereof if the daily wage has fluctuated, by
14 three hundred if he was employed on the basis of a
15 six-day workweek, two hundred and eighty if employed
16 on the basis of a five-and-one-half-day week, and two
17 hundred and sixty if employed on the basis of a five-
18 day week, except that if the employment was in a
19 position for which an annual rate of compensation was
20 fixed, such average annual earnings shall consist of such
21 annual rate of compensation.

22 “(B) If the injured employee did not work in
23 such employment during substantially the whole of
24 such year, but the position was such as would have
25 afforded employment for substantially a whole year,

1 then the average annual earnings of such employee
2 shall be equal to the average annual earnings of an
3 employee of the same class working substantially the
4 whole of such immediately preceding year in the same
5 or similar employment by the United States in the same
6 or neighboring place, as determined in accordance with
7 clause (A).

8 “(C) If either of the foregoing methods of deter-
9 mining the average annual earnings of an injured em-
10 ployee cannot reasonably and fairly be applied, such
11 average annual earnings shall be such sum as, having
12 regard to the previous earnings of the injured employee
13 in Federal employment, and of other employees of the
14 United States in the same or most similar class working
15 in the same or most similar employment in the same or
16 neighboring locality, or to other previous employment
17 of such employee, or to any other relevant factors, shall
18 reasonably represent the annual earning capacity of the
19 injured employee in the employment in which he was
20 working at the time of the injury: *Provided*, That his
21 average annual earnings shall consist of not less than
22 one hundred and fifty times the average daily wage
23 which he shall have earned in such employment during
24 the days when so employed within the period of one
25 year immediately preceding his injury.

1 “(D) Such rules shall, so far as practicable, be
2 also applied in the case of an employee serving without
3 pay or at nominal pay: *Provided*, That (i) the average
4 annual earnings of such employee shall in no event
5 exceed the basic rate of annual compensation specified
6 under the Classification Act of 1923, as amended, for
7 positions in grade CAF-15 or P-8 at the bottom of
8 such grade, and (ii) if his average annual earnings
9 cannot reasonably and fairly be determined in the
10 manner otherwise provided in this section, such aver-
11 age annual earnings shall be determined at the reason-
12 able value of the service rendered but not in excess
13 of \$3,600 per annum.

14 “(d) As used in this section the term ‘year’ means a
15 period of twelve calendar months, or the equivalent thereof
16 as specified in regulations issued by the Administrator.”

17 COMPUTATION OF WAGE-EARNING CAPACITY

18 SEC. 204. Section 13 of the Federal Employees’ Com-
19 pensation Act (5 U. S. C., 1946 edition, sec. 763), is
20 amended to read as follows:

21 “SEC. 13. (a) In the determination of an employee’s
22 wage-earning capacity after the beginning of partial disa-
23 bility, the rules specified in section 12 (b) shall apply.

24 “(b) The wage-earning capacity of an injured em-
25 ployee, in determining compensation for partial disability

1 other than permanent partial disability compensable under
2 section 5, shall be determined by his actual earnings if
3 such actual earnings fairly and reasonably represent his
4 wage-earning capacity: *Provided, however,* That if the
5 employee has no actual earnings, or his actual earnings do
6 not fairly and reasonably represent his wage-earning capac-
7 ity, such wage-earning capacity as shall appear reasonable
8 under the circumstances of the case shall be determined,
9 having due regard to the nature of his injury, the degree of
10 physical impairment, his usual employment, and any other
11 factors or circumstances in the case which may affect his
12 capacity to earn wages in his disabled condition.”

13 ADMINISTRATOR SUBSTITUTED FOR COMMISSION

14 SEC. 205. (a) Section 28 of the Federal Employees’
15 Compensation Act, as amended, is amended to read as
16 follows:

17 “SEC. 28. This Act shall be administered by the
18 Administrator. The Administrator is authorized to delegate
19 to any officer or employee of the Federal Security Agency
20 any of the powers conferred upon him by this Act.”

21 (b) The first and third sentences of section 28a of such
22 Act are repealed, but such repeal shall not be construed to
23 revive any independent bureau or other agency abolished by
24 such section.

25 (c) (1) The word “commission” (or other designation

1 of the commission), and the word "it" or "its" whenever
2 they refer to the commission, in any part of such Act, are
3 struck out wherever necessary in order to give effect to
4 subsection (a) of this section, and the words "Adminis-
5 trator" and "he" or "his", respectively, are inserted in lieu
6 thereof.

7 (2) In addition, the phrase " , or any commissioner by
8 authority of the commission," in section 29 of such Act is
9 struck out.

10 OVERPAYMENTS

11 SEC. 206. Section 38 of the Federal Employees' Com-
12 pensation Act (5 U. S. C., 1946 edition, sec. 788), is
13 amended to read as follows:

14 "SEC. 38. (a) Subject to the provisions of sections 36
15 and 37, whenever by reason of an error of fact or law an
16 overpayment has been made to an individual under this
17 Act, proper adjustments shall be made, under regulations
18 prescribed by the Administrator, by decreasing subsequent
19 payments to which such individual is entitled. If such
20 individual dies before such adjustment has been completed,
21 adjustment shall be made by decreasing subsequent benefits,
22 if any, payable under this Act with respect to such individ-
23 ual's death.

24 "(b) There shall be no adjustment or recovery by the
25 United States in any case where incorrect payment has been

1 made to an individual who is without fault and where ad-
2 justment or recovery would defeat the purpose of this Act
3 or would be against equity and good conscience.

4 “(c) No certifying or disbursing officer shall be held
5 liable for any amount certified or paid by him to any person
6 where the adjustment or recovery of such amount is waived
7 under subsection (b), or where adjustment under subsection
8 (a) is not completed prior to the death of all persons
9 against whose benefits deductions are authorized.”

10 SHORT TITLE

11 SEC. 207. The Federal Employees' Compensation Act,
12 as amended, is further amended by adding thereto at the
13 end thereof a new section as follows:

14 “SEC. 43. This Act may be cited as the ‘Federal Em-
15 ployees' Compensation Act’.”

16 FEES

17 SEC. 208. Section 23 of such Act, as amended, is further
18 amended to read as follows:

19 “SEC. 23. (a) Fees or examinations made on the part
20 of the United States under sections 21 and 22 by physicians
21 who are not officers or employees of the United States and
22 not under contract to the United States to render medical
23 services to its employees shall be fixed by the Administrator.
24 Such fees, and any sum payable to the employee under
25 section 21, which authorized or approved by the Adminis-

1 trator, shall be paid from the Employees' Compensation
2 Fund.

3 “(b) A claimant may be represented before the Admin-
4 istrator in any proceeding under this Act by any person
5 duly authorized by such claimant. No claim for legal services
6 or for any other services rendered in respect of a case, claim,
7 or award for compensation under this Act, to or on account
8 of any person, shall be valid unless approved by the Admin-
9 istrator. Any person who receives any fee or other considera-
10 tion, or any gratuity on account of services so rendered, unless
11 such fee, consideration, or gratuity, is so approved, or who
12 solicits employment for himself or another in respect of any
13 case, claim, or award for compensation under (or to be
14 brought under) this Act shall be guilty of a misdemeanor and
15 upon conviction thereof shall, for each offense, be punished
16 by a fine of not more than \$1,000 or by imprisonment not to
17 exceed one year, or by both such fine and imprisonment.

18 “(c) If any person in proceedings before the Adminis-
19 trator or his duly authorized representative disobeys or resists
20 any lawful order or process, or misbehaves during a hearing
21 or so near the place thereof as to obstruct the same, the
22 Administrator or his duly authorized representative shall cer-
23 tify the facts to the district court having jurisdiction in the
24 place in which he is sitting (or to the district court of the
25 United States for the District of Columbia if he is sitting in

1 such district) which shall thereupon in a summary manner
 2 hear the evidence as to the acts complained of, and, if the evi-
 3 dence so warrants, punish such person in the same manner
 4 and to the same extent as for a contempt committed before
 5 the court, or commit such person upon the same conditions
 6 as if the doing of the forbidden act had occurred with refer-
 7 ence to the process of or in the presence of the court.”

8 TITLE III—TRANSITIONAL PROVISIONS AND 9 EFFECTIVE DATE

10 EXTENSION OF TIME LIMITATIONS

11 SEC. 301. (a) Where an individual with respect to
 12 whose disability or death compensation is claimed under
 13 the Federal Employees' Compensation Act, as amended,
 14 was injured or died outside the United States on or after
 15 December 7, 1941, and before August 11, 1946, the time
 16 limitations of such Act with respect to the giving of notice
 17 of injury and the filing of a claim for compensation shall
 18 not begin to run until the date of enactment of this Act.

19 (b) As used in this subsection, the term “United
 20 States” includes only the States, Alaska, Hawaii, Puerto
 21 Rico, the Virgin Islands, and the Canal Zone.

22 COMPROMISE SETTLEMENTS—PRIVATE ACTS

23 SEC. 302. The provisions of this Act shall not be con-
 24 strued to authorize the payment of any compensation under
 25 the Federal Employees' Compensation Act in any case

1 where, pursuant to private relief legislation, a beneficiary
2 of such legislation has accepted payment of a grant in
3 satisfaction of the liability of the United States (or its cor-
4 poration, agency, or other instrumentality) in such case, or
5 where such liability has been compromised and settled, or
6 other satisfaction received, as the result of any action sound-
7 ing in tort or under maritime law, or where a lump sum
8 has been received under section 14 of the Federal Employ-
9 ees' Compensation Act and the lump-sum award is not
10 modified or set aside for other reasons.

11 EFFECTIVE OPERATION

12 SEC. 303. (a) Except as otherwise provided by this
13 section or in this Act, titles I and II of this Act shall take
14 effect on the date of enactment of this Act and be applicable
15 to any injury or death occurring before or after such date.

16 (b) The amendments made by section 101 of this Act
17 to sections 2 and 8 of the Federal Employees' Compensation
18 Act shall not apply to any period of disability commencing
19 before the enactment of this Act.

20 (c) The amendments made by sections 102, 103, 105,
21 and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of
22 the Federal Employees' Compensation Act shall be applicable
23 to cases of injury or death occurring before enactment of
24 this Act only with respect to any period beginning on or

1 after the first day of the first calendar month following the
2 enactment of this Act.

3 (d) (1) The amendments made by section 104 of this
4 Act to section 5 of the Federal Employees' Compensation
5 Act, establishing special provisions for permanent disability
6 involving the loss, or loss of use, of a member or function
7 of the body, shall (A) in cases within the purview
8 of section 5 (b) or in cases of disfigurement apply
9 retroactively to any case where the injury occurred
10 on or after January 1, 1940, and (B) in other
11 cases, apply retroactively to injuries which occurred
12 within one year prior to the enactment of this Act: *Provided*,
13 That where the injury occurred before such enactment,
14 except in cases specified in subsection (b) of section 5 of
15 such Act, as so amended, the injured employee shall not be
16 entitled to compensation under the schedule unless within
17 one year after such date of enactment he elects to receive
18 compensation under the schedule if so entitled: *Provided*
19 *further*, That in the event of such election, all amounts
20 theretofore paid on the basis of loss of wage-earning capacity
21 as compensation for permanent disability involving a loss,
22 or loss of use, of a member or function, or disfigurement, as
23 specified in the schedule shall be credited against any com-
24 pensation awarded by reason of such amendment: *And*

1 *provided further*, That any award made under the provisions
2 of this subsection shall be payable prospectively in the same
3 manner as though the injury occurred after the enactment
4 of this Act.

5 (2) No payment upon death pursuant to section 5 (d)
6 of the Federal Employees' Compensation Act, as amended
7 by this Act, shall be made unless death occurs after such
8 enactment. In the event of such death, the election required
9 by paragraph (1) of this subsection shall be deemed to have
10 been made.

11 (e) Section 107 of this Act, amending section 11 of the
12 Federal Employees' Compensation Act, shall apply only to
13 deaths occurring after the enactment of this Act.

14 (f) (1) The amendments made by section 108 of this
15 Act to the definition of the term "employee" contained in
16 section 40 of the Federal Employees' Compensation Act
17 shall, as to any case of injury or death occurring before the
18 date of enactment of this Act, apply only to injuries or deaths
19 occurring on or after December 7, 1941, and compensation
20 (including medical or other benefits) in any such case shall
21 not be paid for any period earlier than the first day of the
22 first month following enactment of this Act and, in cases of
23 disability caused by such an injury, shall be limited to com-
24 pensation for permanent partial or permanent total dis-
25 ability.

1 (2) The time limitations of the Federal Employees'
2 Compensation Act with respect to the giving of notice of in-
3 jury and the filing of a claim for compensation, in any case
4 brought within the purview of section 40 of such Act by this
5 Act, shall not begin to run until the date of enactment of
6 this Act.

7 (g) The amendment made by section 201 of this Act to
8 section 7 of the Federal Employees' Compensation Act,
9 making the remedy and liability under such Act exclusive,
10 shall not apply to any case of injury or death occurring prior
11 to the enactment of this Act in which liability other than
12 that arising under such Act, or any extension thereof, was
13 finally determined prior to the enactment of this Act.

14 (h) The amendments made by sections 203 and 204
15 of this Act to sections 12 and 13 of the Federal Employees'
16 Compensation Act, pertaining to the determination of the
17 employee's pay or his wage-earning capacity, may, in the
18 interest of justice and in the discretion of the Administrator,
19 be applied in any case, irrespective of the date of injury
20 or death, so as to cause payments of compensation, with
21 respect to any period not earlier than the first day of the
22 first month after enactment of this Act, to be consistent with
23 such amendments.

24 TIME LIMITATIONS NOT EXTENDED

25 SEC. 304. Except as otherwise expressly provided, the

1 enactment of this Act shall not suspend or defer the running
2 of the time limitations of the Federal Employees' Compensa-
3 tion Act with respect to the giving of notice of injury and
4 filing of a claim for compensation.

5 ACCIDENT PREVENTION AND ANNUAL REPORTS

6 SEC. 305. Section 33 of the Federal Employee's Com-
7 pensation Act, as amended, is further amended by designat-
8 ing the first two paragraphs thereof, respectively, subsections
9 "(a)" and "(b)" and by adding a new subsection designat-
10 ed as "(c)", as follows:

11 "(c) In order to reduce the number of accidents and
12 injuries among Government officers and employees, encourage
13 safe practices, eliminate work hazards and health risks, and
14 reduce compensable injuries, the heads of the various de-
15 partments and agencies are authorized and directed to de-
16 velop, support, and foster organized safety promotion, and
17 the President may also establish by Executive order a safety
18 council composed of representatives of Government depart-
19 ments and agencies to serve as an advisory body to the
20 Administrator in furtherance of the safety program car-
21 ried out by the Administrator pursuant to this section, and
22 the President may undertake such other measures as he may
23 deem proper to prevent injuries and accidents to persons
24 covered by this Act."

TITLE IV

LIBERALIZATION OF MINIMUM AND MAXIMUM COMPENSATION FOR EMERGENCY RELIEF WORKERS

SEC. 401. (a) Clauses (a), (b), and (c) of the second proviso to section 1 of the Act approved February 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended to read as follows:

“(a) that the aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of \$4,000 and that the monthly monetary compensation shall not in any event exceed \$100, both exclusive of medical costs;

“(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as provided by section 10 (K) of such Act, the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$75 and compensation shall be payable on the basis of such pay regardless of the actual pay at the time of injury or death, except that the Federal Security Administrator may from time to time, by regulation, fix a lower minimum monthly pay

as a basis for computing such compensation as to any class of individuals, specified in the fourth paragraph of section 42 of such Act, as amended, who sustained injury or were killed outside the continental United States;

“(c) that the Federal Security Administrator may from time to time, subject to the above limitations, establish a special schedule of compensation for disability and for death (including a special schedule of compensation for the loss, or loss of use, of members or functions of the body), and compensation under such schedule shall be in lieu of all other compensation in such cases;”.

(b) The first proviso to section 8 of the Emergency Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352, 356), and the first proviso to section 16 of the Emergency Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809, 814), are repealed.

(c) This section shall apply to any case heretofore or hereafter coming within the purview of such Act of February 15, 1934, but no compensation shall, with respect to any case of injury or death occurring before the date of enactment of this Act, accrue or be increased by reason of the enactment of this section for any period prior to the first day of the first month following the date of enactment of this Act.

(d) The special schedule of compensation heretofore

1 established pursuant to clause (a) of the second proviso
2 to section 1 of such Act of February 15, 1934, shall remain
3 in effect until superseded by a new schedule established
4 pursuant to the amendments made by this section.

5 MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

6 SEC. 402. Effective as of July 25, 1947, paragraph a
7 of section 2 of the Act approved July 25, 1947 (ch. 327,
8 61 Stat. 449, 451), is amended by striking out the semi-
9 colon at the end of the provision repealing the Act of July
10 1, 1943 (57 Stat. 371), and the Act of May 14, 1942
11 (56 Stat. 278), as amended, and inserting in lieu thereof
12 a colon and the following proviso: "*Provided*, That section
13 11 of such Act of May 14, 1942, shall remain in effect
14 to the extent specified in section 5 of such Act of July 1,
15 1943;".

Passed the House of Representatives June 30, 1949.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

JULY 1 (legislative day, JUNE 2), 1949

Read twice and referred to the Committee on Labor
and Public Welfare

AMENDMENTS TO FEDERAL EMPLOYEES' COMPENSATION ACT

AUGUST 4 (legislative day, JUNE 2), 1949.—Ordered to be printed

Mr. DOUGLAS, from the Committee on Labor and Public Welfare
submitted the following

REPORT

[To accompany H. R. 3191]

The Committee on Labor and Public Welfare, to whom was referred the bill (H. R. 3191) to amend the Federal Employees' Compensation Act of September 7, 1916, as amended, having considered the same, report favorably thereon with amendments, and recommend that the bill, as amended, do pass.

H. R. 3191 is a companion bill to S. 1287, introduced by Mr. Thomas of Utah and referred to this committee. Hearings were held before a subcommittee of your committee on S. 1287. The House bill thereafter was passed with amendments on June 30, 1949. The House having acted first, the committee thereupon proceeded to consider the House bill. In the light of study and information adduced through hearings certain amendments were made.

Such deletions as were made are shown to be stricken, new matter shown in italics, in the following bill as reported herewith:

[H. R. 3191, 81st Cong., 1st sess.]

[Omit the part struck through and insert the part printed in italic]

AN ACT To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Compensation Act Amendments of 1949".

TITLE I—SUBSTANTIVE AMENDMENTS

WAITING PERIOD MODIFIED

SEC. 101. (a) Section 2 of the Act approved September 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act referred to as the "Federal Employees' Com-

pensation Act”), as amended (5 U. S. C., 1946 edition, sec. 752), is hereby amended to read as follows:

“SEC. 2. That with respect to the first three days of temporary disability the employee shall not be entitled to compensation except as provided in section 9, unless such disability exceeds twenty-one days in duration or is followed by permanent disability.”

(b) Section 8 of such Act (5 U. S. C., 1946 edition, section 758), is amended to read as follows:

“SEC. 8. If at the time the disability begins the employee has annual or sick leave to his credit he may use such leave until it is exhausted, in which case his compensation for disability shall not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased.”

BASIC BENEFIT FOR TOTAL DISABILITY

SEC. 102. Section 3 of the Federal Employees’ Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 753), is hereby amended to read as follows:

“SEC. 3. (a) Except as otherwise provided in this Act, if the disability is total the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66⅔ per centum of his monthly pay, which shall be known as his basic compensation for total disability.

“(b) Loss, or loss of use, of both hands, or both arms, or both feet, or both legs, or both eyes or the sight thereof, ~~or of any two thereof~~ shall, prima facie, constitute permanent total disability.”

BASIC BENEFIT FOR PARTIAL DISABILITY

SEC. 103. (a) Section 4 of the Federal Employees’ Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 754), is further amended to read as follows:

“SEC. 4. (a) (1) Except as otherwise provided in this Act, if the disability is partial the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66⅔ per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability, which shall be known as his basic compensation for partial disability.

“(2) The Administrator may require a partially disabled employee to make an affidavit or other report, in such manner and at such times as the Administrator may specify as to his earnings, whether from employment or self-employment. In such affidavit or other report the employee shall include the value of housing, board, lodging, and other advantages which are part of his remuneration for employment or are earnings in self-employment and which can be estimated in money. If such individual, when required, fails to make such affidavit or other report, or if in such affidavit or report the employee knowingly omits or understates any part of such earnings or remuneration, he shall forfeit his right to compensation with respect to any period for which such report was required to be made, and such compensation, if already paid, shall be recovered by deducting the amount thereof from the compensation payable to him or otherwise recovered in accordance with section 38, unless such recovery is waived pursuant to such section.

“(b) If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation.”

(b) Section 39 of such Act (5 U. S. C., 1946 edition, sec. 789), is amended by inserting, after “affidavit” the words “or report”.

SCHEDULED DISABILITIES

SEC. 104. Section 5 of the Federal Employees’ Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 755), is amended to read as follows:

“SEC. 5. (a) In any case of permanent disability which involves solely the loss, or loss of use, of a member or function of the body, or *involves* disfigurement, as provided in the following schedule, basic compensation for such disability shall in addition to compensation for any temporary total or temporary partial disability, be payable to the disabled employee for the period specified in such schedule at the rate of 66⅔ per centum of his monthly pay and shall, except as otherwise provided in subsection (b) *and in cases involving disfigurement*, be in lieu of compensation for such permanent disability under the preceding sections of this Act:

- "(1) Arm lost, three hundred and twelve weeks' compensation.
- "(2) Leg lost, two hundred and eighty-eight weeks' compensation.
- "(3) Hand lost, two hundred and forty-four weeks' compensation.
- "(4) Foot lost, two hundred and five weeks' compensation.
- "(5) Eye lost, one hundred and sixty weeks' compensation.
- "(6) Thumb lost, seventy-five weeks' compensation.
- "(7) First finger lost, forty-six weeks' compensation.
- "(8) Great toe lost, thirty-eight weeks' compensation.
- "(9) Second finger lost, thirty weeks' compensation.
- "(10) Third finger lost, twenty-five weeks' compensation.
- "(11) Toe other than great toe lost, sixteen weeks' compensation.
- "(12) Fourth finger lost, fifteen weeks' compensation.
- "(13) Loss of hearing: (A) Complete loss of hearing of one ear, fifty-two weeks' compensation; (B) complete loss of hearing of both ears, two hundred weeks' compensation.

"(14) Binocular vision or percentage of vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for the loss of the eye.

"(15) Phalanges: Compensation for loss of more than one phalanx of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalanx shall be one-half of the compensation for loss of the entire digit.

"(16) Amputated arm or leg: If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation shall be the same as for the loss of the arm or leg, respectively.

"(17) Two or more digits: Compensation for loss, or loss of use, of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, shall be proportioned to the loss of use of the hand or foot occasioned thereby.

"(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

"(19) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. The degree of loss of vision or hearing under this schedule shall be determined without regard to correction.

"(20) In any case in which there shall be a loss or loss of use, of more than one member or parts of more than one member as enumerated herein, the award of compensation shall be for the loss, or loss of use, of each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.

"(21) Disfigurement: Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

"(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision), or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual's basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be 66⅔ per centum of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is total or as provided in subsection (a) of section 4 if the disability is partial.

"(c) The period of compensation payable under the schedule to subsection (a) of this section on account of any injury shall be reduced by the period of compensation paid or payable under such schedule on account of a prior injury if compensation in both cases is for disability of the same member or function, or different parts of the same member or function, or for disfigurement, and the Administrator finds that compensation payable on account of the subsequent disability in whole or in part would duplicate the compensation payable on account of the preexisting disability. In such cases for the purposes of disabili-

ties specified in subsection (b), compensation for disability continuing after the scheduled period shall commence upon expiration of such period as reduced under this subsection.

"(d) (1) If an individual who has sustained disability compensable under subsection (a) (including any disability compensable under the schedule to subsection (a) by virtue of subsection (b)), and who has filed a valid claim in his lifetime, dies, from causes other than the injury, before the expiration of the compensable period specified in such schedule, the compensation specified in such schedule and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in such schedule, to and for the benefit of the persons then in being within the classes and in the proportions and upon the conditions specified in this subsection and in the order named.

"(A) to the widow (as defined in section 10 (H)) or wholly dependent widower (as specified in section 10 (B)), if there is no child (as so defined) under the age of eighteen or incapable of self-support; or

"(B) if there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

"(C) if there is no such widow or widower but such a child or children, then to such child or children; or

"(D) if there is no survivor in the above classes, then to the parent or parents wholly or partly dependent for support upon the decedent, or to other wholly or partly dependent relatives listed in section 10 (F), or to both, in such proportions as may be provided by regulation; or

"(E) if there is no survivor in any of the above classes, and no burial allowance is payable under section 11, then such amount, not exceeding the amount which would be expendable under section 11 if such section were applicable, shall be paid to reimburse any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

"(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual's death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent disability specified in subsection (a) of this section, even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

"(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

"(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would have been payable to him had such entitlement continued shall be payable to the surviving beneficiary or beneficiaries, if any, within the same class or, if there are none, then to the beneficiary or beneficiaries next entitled to priority under such paragraph."

ELIMINATION MODIFICATION OF MAXIMUM AND INCREASE OF MINIMUM BENEFIT AMOUNT—DEPENDENTS' BENEFITS, AND SO FORTH

SEC. 105. Section 6 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 756), is further amended to read as follows:

"SEC. 6. (a) (1) While the disabled employee has one or more dependents, his basic compensation for disability payable under section 3 or section 5 (a) (including compensation payable under the schedule to section 5 (a) by virtue of section 5 (b)) shall be augmented at the rate of $8\frac{1}{2}$ per centum of his monthly pay, and his basic compensation for disability payable under section 4 (a) shall be augmented at the rate of $8\frac{1}{2}$ per centum of the difference between his monthly pay and his monthly wage-earning capacity: *Provided, That for any period of temporary total disability the augmentation of his basic compensation for disability payable under section 3 shall be limited to that part of his monthly pay which is not in excess of \$420.*

"(2) As used in this subsection, the term 'dependent' shall mean any of the following:

"(A) A wife, if (i) she is a member of the same household as the employee or is receiving regular contributions from him toward her support, or (ii) he has been ordered by any court to contribute to her support.

"(B) A husband, if wholly dependent by reason of his own physical or mental disability upon the employee for support.

"(C) An unmarried child (as defined in section 10 (H)), while such child (i) is under eighteen years of age or, if over eighteen, is incapable of self-support by reason of mental or physical disability, and (ii) is living with the employee or receiving regular contributions toward his support from the employee.

"(D) A parent (as defined in section 10 (H)), while wholly dependent upon and supported by the employee.

"(b) (1) In addition to the monthly compensation otherwise specified in this Act, the Administrator may pay an injured employee, who has been awarded compensation, an additional sum of not more than \$75 a month, as the Administrator may deem necessary, when the Administrator shall find that the service of an attendant is necessary constantly to be used by reason of the employee's being totally blind, or having lost both hands or both feet or the use thereof, or being paralyzed and unable to walk, or by reason of other disability resulting from the injury actually rendering him so helpless as to require constant attendance.

"(2) The Administrator may pay to any disabled individual who is undergoing vocational rehabilitation pursuant to the Administrator's direction under section 9 (b) additional compensation necessary for his maintenance, but not to exceed \$50 per month.

"(c) Except as otherwise authorized under section 42, the monthly rate of compensation for ~~total~~ disability, including any augmented compensation payable by reason of subsection (a) but not including any sum payable by reason of subsection (b), shall not be *more than \$525 per month and in cases of total disability shall not be less than \$112.50 per month*, unless the employee's monthly pay is less in which case his monthly rate of compensation *for total disability* shall be equal to his full monthly pay.

"(d) (1) In the case of any person who at the time of the injury was a minor or employed in a learner's capacity and who, prior to the injury, was not physically or mentally handicapped, the Administrator shall, on any review under section 37 after the time when the wage-earning capacity of such person would probably, but for the injury, have increased, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable increased wage-earning capacity. The Administrator may, on any review under section 37 after a disabled employee has attained the age of seventy years and the wage-earning capacity of the disabled employee would probably, aside from and independently of the effects of the injury, have decreased on account of old age, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable decreased wage-earning capacity.

"(2) If a disabled individual, without good cause, fails to apply for and undergo vocational rehabilitation when so directed pursuant to section 9 (b), and the Administrator, upon review under section 37, finds that in the absence of such failure the individual's wage-earning capacity would probably have substantially increased, the Administrator may prospectively reduce the individual's monetary compensation in accordance with what would probably have been his wage-earning capacity in the absence of such failure, until the individual in good faith complies with the Administrator's direction."

INCREASE IN DEATH BENEFITS, AND SO FORTH

SEC. 106. (a) Section 10 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 760), is further amended by striking out "66 $\frac{2}{3}$ " wherever it occurs and inserting in lieu thereof "75"; by striking out "35" in clauses (A) and (B) and inserting in lieu thereof "45"; by striking out in clause (C) the words "the compensation payable under clause (A) or clause (B)" and inserting in lieu thereof "40 per centum"; by striking out "10" in clauses (C) and (D) and inserting in lieu thereof "15"; and by striking out "25" in clause (D) and inserting in lieu thereof "35".

(b) Clause (K) of such section, as amended, is further amended to read as follows:

"(K) In computing compensation under this section the monthly pay shall be considered not to be less than \$150, but the total monthly compensation shall not exceed the monthly pay computed as provided in section 12 *or the sum of \$525.*"

(c) Clause (B) of such section, as so amended, is further amended to read as follows:

"(B) To the widower, if there is no child, 45 per centum if wholly dependent for support, by reason of his physical or mental disability, upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage or until he becomes capable of self-support."

(d) Such section, as so amended, is further amended by striking out the second sentence of clause (C), the last sentence of clause (D), and the last sentence of clause (G).

(e) Clause (L) of such section, as so amended, is amended to read as follows:

"(L) If any person entitled to compensation under this section or section 5 or 6, whose compensation by the terms of this or of such other section ceases or is to be reduced upon his marriage or upon the marriage of his dependent, accepts after such marriage any payments or compensation to which he is not entitled, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment."

LIBERALIZATION OF BURIAL PAYMENTS

SEC. 107. Section 11 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 761), is further amended to read as follows:

"Sec. 11. If death results from the injury the United States shall pay, to the personal representative of the deceased employee or otherwise, funeral and burial expenses not to exceed \$400, in the discretion of the Administrator. In the case of an employee whose home is within the United States, if his death results from the injury while he is away from his home or official station or is outside of the United States, or if his death results from other causes while he is away from his home or official station for the purpose of receiving medical or other services, appliances, or supplies under section 9 or examination under section 21, and if so desired by his relatives, the body shall, in the discretion of the Administrator, be embalmed and transported in a hermetically sealed casket to the home or last place of residence of the employee at the expense of the employees' compensation fund. If, in such cases, request for return of the body is not made by the decedent's relatives, the Administrator may provide for the disposition of the remains and incur, and cause payment from the employees' compensation fund of, such necessary transportation, funeral, and burial expenses as under the circumstances shall be reasonable."

EXTENSION OF COVERAGE, AND SO FORTH

SEC. 108. (a) Section 49 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 790), is further amended, by designating the paragraphs thereof, following the introductory phrase, as paragraphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)", and "(h)", respectively.

(b) Paragraph (b) of such section, as so designated, defining the term "employee", is further amended to read as follows:

"(b) The term 'employee' includes (1) all civil officers and employees of all branches of the Government of the United States (including officers and employees of instrumentalities of the United States wholly owned by the United States ~~but not including Members of Congress~~); (2) commissioned officers of the Regular Corps of the Public Health Service; (3) officers in the Reserve of the Public Health Service on active duty; (4) persons rendering personal services of a kind similar to those of civilian officers or employees of the United States to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it), without compensation or for nominal compensation, in any case in which acceptance or use of such services is authorized by an Act of Congress or in which provision is made by law for payment of the travel or other expenses of such person; and (5) persons, other than independent contractors and their employees, employed on the Menominee Indian Reservation in the State of Wisconsin, subsequent to September 7, 1916, in operations conducted pursuant to the Act entitled 'An Act to authorize the cutting of timber,

the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin, approved March 28, 1908, as amended, or any other Act relating to tribal timber and logging operations on the Menominee Reservation."

(c) Paragraph (c) of such section, as so designated defining the term "commission", is further amended by inserting "former" after the words "to the" and by striking out the words "provided for in section 28".

(d) Paragraph (f) of such section, as so designated, defining the term "monthly pay", is further amended by inserting, immediately before the period, the following: "except when otherwise determined under section 6 (d) with respect to any period".

(e) Such section is further amended by adding thereto a new paragraph "(i)" reading as follows:

"(i) The term 'Administrator' means the Federal Security Administrator."

INCREASE OF COMPUTATION BASE WHERE INJURY OCCURRED BEFORE JULY 1, 1946

SEC. 109. Notwithstanding any other provision of this Act or of the Federal Employees' Compensation Act, the monthly pay upon the basis of which compensation for disability or death is computed under the Federal Employees' Compensation Act, as amended, shall, effective on the first day of the first calendar month following enactment of this Act, be increased by 40 per centum if the injury (or injury causing death) occurred *before May 1, 1943, in the cases of persons employed in the postal service whose compensation was affected by the Act of April 9, 1943 (57 Stat. 59), or before January 1, 1941, in all other cases*, or by 10 per centum if the injury (or injury causing death) occurred on or after such date but before July 1, 1946, except that such increase shall in ~~neither~~ no event exceed \$50. This section shall apply to any case of death caused by such an injury, regardless of whether such death occurs or occurred before or after the enactment of this Act.

TITLE II—TECHNICAL AMENDMENTS

EXCLUSIVENESS OF REMEDY

SEC. 201. Section 7 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 757), is further amended by inserting the designation "(a)" immediately before the first sentence thereof and by adding to such section a new subsection reading as follows:

"(b) ~~The remedy afforded to any person under this Act with respect to his own injury or the death of another individual shall be the exclusive remedy against, and be in place of any other legal liability of the United States or any of its instrumentalities on account of such injury or death, where such liability is determinable by direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute.~~"

(b) *The liability of the United States or any of its instrumentalities under this Act or any extension thereof with respect to the injury or death of an employee shall be exclusive, and in place, of all other liability of the United States or such instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and anyone otherwise entitled to recover damages from the United States or such instrumentality, on account of such injury or death, in any direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute.*

VOCATIONAL REHABILITATION; MEDICAL AND OTHER INITIAL PAYMENTS

SEC. 202. (a) Section 9 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 759), is amended by inserting before the first sentence thereof the designation "(a)" and by adding at the end of such section a new subsection reading as follows:

"(b) The Administrator may direct any permanently disabled individual whose disability is compensable under this Act to undergo vocational rehabilitation and shall make provision for furnishing vocational rehabilitation services in such cases. In providing for such services, the Administrator shall, insofar as practicable, utilize the services or facilities of State agencies (or corresponding agencies in Territories or possessions) cooperating with him in carrying out the purposes

of the Vocational Rehabilitation Act, as amended, except to the extent that the Administrator provides for furnishing such services under subsection (a) of this section. The cost of providing such services to individuals undergoing vocational rehabilitation pursuant to such direction shall be paid from the employees' compensation fund, except that in reimbursing any State agency (or corresponding agency of a Territory or possession) under any arrangement pursuant to this subsection there shall be excluded any cost to such agency reimbursable in full under section 3 (a) (4) of the Vocational Rehabilitation Act, as amended."

(b) *Section 9 of the Federal Employees' Compensation Act, as so amended, is further amended by inserting immediately before the last sentence of subsection (a) of such section the following: "The Administrator may, under such limitations or conditions as he shall deem necessary, authorize employing establishments of the United States to provide for the initial furnishing of medical and other benefits under this section, and the Administrator may certify for payment out of the Employees' Compensation Fund vouchers for expenses thus incurred for such benefits, upon certification by the person required by section 24 to make reports of injury that the expense was incurred in respect to injury which was accepted by the employing establishment as probably compensable under this Act. The form and content of such certification shall be prescribed by the Administrator."*

COMPUTATION OF PAY

SEC. 203. Section 12 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 762) is amended to read as follows:

"SEC. 12. (a) In computing monetary compensation for disability or death upon the basis of monthly pay, such pay shall be determined in accordance with the provisions of this section.

"(b) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, shall be included as part of the pay. Overtime pay, or additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstance, or bonus or premium pay for extraordinary service (including amounts paid as bonus for particularly hazardous service in time of war) shall not be taken into account. The term 'overtime pay', as used in this subsection, means pay for hours of service in excess of those of a statutory or other basic workweek, or other basic unit of work time, as observed by the establishment in which the employee is employed.

"(c) (1) The monthly pay at the time of injury shall be deemed to be one-twelfth of the employee's average annual earnings at that time, except that when compensation is paid upon a weekly basis, the weekly equivalent of such monthly pay shall be deemed to be one-fifty-second of such average annual earnings: *Provided*, That, for so much of the period of total disability as does not exceed ninety calendar days from the date of the beginning of compensable disability, the compensation may, in the discretion of the Administrator, be computed on the basis of the employee's actual daily wage at the time of injury and in that event he may be paid compensation for such days as he would have worked but for the injury.

"(2) Average annual earnings shall be determined as follows:

"(A) If the employee worked in the employment in which he was working at the time of his injury during substantially the whole of the year immediately preceding such injury, his average annual earnings shall consist of the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by three hundred if he was employed on the basis of a six-day workweek, two hundred and eighty if employed on the basis of five-and-one-half-day week, and two hundred and sixty if employed on the basis of a five-day week, except that if the employment was in a position for which an annual rate of compensation was fixed, such average annual earnings shall consist of such annual rate of compensation.

"(B) If the injured employee did not work in such employment during substantially the whole of such year, but the position was such as would have afforded employment for substantially a whole year, then the average annual earnings of such employee shall be equal to the average annual earnings of an employee of the same class working substantially the whole of such immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined in accordance with clause (A).

“(C) If either of the foregoing methods of determining the average annual earnings of an injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring locality, or to other previous employment of such employee, or to any other relevant factors, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury: *Provided*, That his average annual earnings shall consist of not less than one hundred and fifty times the average daily wage which he shall have earned in such employment during the days when so employed within the period of one year immediately preceding his injury.

“(D) Such rules shall, so far as practicable, be also applied in the case of an employee serving without pay or at nominal pay: *Provided*, That (i) the average annual earnings of such employee shall in no event exceed the basic rate of annual compensation specified under the Classification Act of 1923, as amended, for positions in grade CAF-15 or P-8 at the bottom of such grade, and (ii) if his average annual earnings cannot reasonably and fairly be determined in the manner otherwise provided in this section, such average annual earnings shall be determined at the reasonable value of the service rendered but not in excess of \$3,600 per annum.

“(d) As used in this section the term ‘year’ means a period of twelve calendar months, or the equivalent thereof as specified in regulations issued by the Administrator.”

COMPUTATION OF WAGE-EARNING CAPACITY

SEC. 204. Section 13 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 763), is amended to read as follows:

“SEC. 13. (a) In the determination of an employee's wage-earning capacity after the beginning of partial disability, the rules specified in section 12 (b) shall apply.

“(b) The wage-earning capacity of an injured employee, in determining compensation for partial disability other than permanent partial disability compensable under section 5, shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however*, That if the employee has no actual earnings, or his actual earnings do not fairly and reasonably represent his wage-earning capacity, such wage-earning capacity as shall appear reasonable under the circumstances of the case shall be determined, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition.”

ADMINISTRATOR SUBSTITUTED FOR COMMISSION

SEC. 205. (a) Section 28 of the Federal Employees' Compensation Act, as amended, is amended to read as follows:

“SEC. 28. This Act shall be administered by the Administrator. The Administrator is authorized to delegate to any officer or employee of the Federal Security Agency any of the powers conferred upon him by this Act.”

(b) The first and third sentences of section 28a of such Act are repealed, but such repeal shall not be construed to revive any independent bureau or other agency abolished by such section.

(c) (1) The word “commission” (or other designation of the commission), and the word “it” or “its” whenever they refer to the commission, in any part of such Act, are struck out wherever necessary in order to give effect to subsection (a) of this section, and the words “Administrator” and “he” or “his”, respectively, are inserted in lieu thereof.

(2) In addition, the phrase “, or any commissioner by authority of the commission,” in section 29 of such Act is struck out.

OVERPAYMENTS

SEC. 206. Section 38 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 788), is amended to read as follows:

“SEC. 38. (a) Subject to the provisions of sections 36 and 37, whenever by reason of an error of fact or law an overpayment has been made to an individual under this Act, proper adjustments shall be made, under regulations prescribed

by the Administrator, by decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by decreasing subsequent benefits, if any, payable under this Act with respect to such individual's death.

"(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault and where adjustment or recovery would defeat the purpose of this Act or would be against equity and good conscience.

"(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized."

SHORT TITLE

SEC. 207. The Federal Employees' Compensation Act, as amended, is further amended by adding thereto at the end thereof a new section as follows:

"SEC. 43. This Act may be cited as the 'Federal Employees' Compensation Act'."

FEEES

SEC. 208. Section 23 of such Act, as amended, is further amended to read as follows:

"SEC. 23. (a) Fees or examinations made on the part of the United States under sections 21 and 22 by physicians who are not officers or employees of the United States and not under contract to the United States to render medical services to its employees shall be fixed by the Administrator. Such fees, and any sum payable to the employee under section 21, which authorized or approved by the Administrator, shall be paid from the Employees' Compensation Fund.

"(b) A claimant may be represented before the Administrator in any proceeding under this Act by any person duly authorized by such claimant. No claim for legal services or for any other services rendered in respect of a case, claim, or award for compensation under this Act, to or on account of any person, shall be valid unless approved by the Administrator. Any person who receives any fee or other consideration, or any gratuity on account of services so rendered, unless such fee, consideration, or gratuity, is so approved, or who solicits employment for himself or another in respect of any case, claim, or award for compensation under (or to be brought under) this Act shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

"(c) If any person in proceedings before the Administrator or his duly authorized representative disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, the Administrator or his duly authorized representative shall certify the facts to the district court having jurisdiction in the place in which he is sitting (or to the district court of the United States for the District of Columbia if he is sitting in such district) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court."

ACCIDENT PREVENTION AND ANNUAL REPORTS

SEC. 209. Section 33 of the Federal Employees' Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections "(a)" and "(b)" and by adding a new subsection designated as "(c)", as follows:

"(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons."

covered by this Act. Departments and other agencies of the United States shall keep such records of injuries and accidents to persons covered by this Act, whether or not resulting in loss of time or the payment or furnishing of benefits, and, make such statistical or other reports and upon such forms as the Administrator may by regulation prescribe."

TITLE III—TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

EXTENSION OF TIME LIMITATIONS

SEC. 301. (a) Where an individual with respect to whose disability or death compensation is claimed under the Federal Employees' Compensation Act, as amended, was injured or died outside the United States on or after December 7, 1941, and before August 11, 1946, the time limitations of such Act with respect to the giving of notice of injury and the filing of a claim for compensation shall not begin to run until the date of enactment of this Act.

(b) As used in this subsection, the term "United States" includes only the States, Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the Canal Zone.

COMPROMISE SETTLEMENTS—PRIVATE ACTS

SEC. 302. The provisions of this Act shall not be construed to authorize the payment of any compensation under the Federal Employees' Compensation Act in any case where, pursuant to private relief legislation, a beneficiary of such legislation has accepted payment of a grant in satisfaction of the liability of the United States (or its corporation, agency, or other instrumentality) in such case, or where such liability has been compromised and settled, or other satisfaction received, as the result of any action sounding in tort or under maritime law, or where a lump sum has been received under section 14 of the Federal Employees' Compensation Act and the lump-sum award is not modified or set aside for other reasons.

EFFECTIVE OPERATION

SEC. 303. (a) Except as otherwise provided by this section or in this Act, titles I and II of this Act shall take effect on the date of enactment of this Act and be applicable to any injury or death occurring before or after such date.

(b) The amendments made by section 101 of this Act to sections 2 and 8 of the Federal Employees' Compensation Act shall not apply to any period of disability commencing before the enactment of this Act.

(c) The amendments made by sections 102, 103, 105, and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of the Federal Employees' Compensation Act shall be applicable to cases of injury or death occurring before enactment of this Act only with respect to any period beginning on or after the first day of the first calendar month following the enactment of this Act.

(d) (1) The amendments made by section 104 of this Act to section 5 of the Federal Employees' Compensation Act, establishing special provisions for permanent disability involving the loss, or loss of use, of a member or function of the body, shall (A) in cases within the purview of section 5 (b) or in cases of disfigurement apply retroactively to any case where the injury occurred on or after January 1, 1940, and (B) in other cases, apply retroactively to injuries which occurred within one year prior to the enactment of this Act: *Provided*, That where the injury occurred before such enactment, except in cases specified in subsection (b) of section 5 of such Act, as so amended, the injured employee shall not be entitled to compensation under the schedule unless within one year after such date of enactment he elects to receive compensation under the schedule if so entitled: *Provided further*, That in the event of such election, all amounts theretofore paid on the basis of loss of wage-earning capacity as compensation for permanent disability involving a loss, or loss of use, of a member or function, or disfigurement, as specified in the schedule shall be credited against any compensation awarded by reason of such amendment: *And provided further*, That any award made under the provisions of this subsection shall be payable prospectively in the same manner as though the injury occurred after the enactment of this Act.

(2) No payment upon death pursuant to section 5 (d) of the Federal Employees' Compensation Act, as amended by this Act, shall be made unless death occurs after such enactment. In the event of such death, the election required by paragraph (1) of this subsection shall be deemed to have been made.

(e) Section 107 of this Act, amending section 11 of the Federal Employees' Compensation Act, shall apply only to deaths occurring after the enactment of this Act.

(f) (1) The amendments made by section 108 of this Act to the definition of the term "employee" contained in section 40 of the Federal Employees' Compensation Act shall, as to any case of injury or death occurring before the date of enactment of this Act, apply only to injuries or deaths occurring on or after December 7, 1941, and compensation (including medical or other benefits) in any such case shall not be paid for any period earlier than the first day of the first month following enactment of this Act and, in cases of disability caused by such an injury, shall be limited to compensation for permanent partial or permanent total disability.

(2) The time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and the filing of a claim for compensation, in any case brought within the purview of section 40 of such Act by this Act, shall not begin to run until the date of enactment of this Act.

(g) The amendment made by section 201 of this Act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such Act exclusive, shall not apply to any case of injury or death occurring prior to the enactment of this Act in which liability other than that arising under such Act, or any extension thereof, was finally determined prior to the enactment of this Act.

(h) The amendments made by sections 203 and 204 of this Act to sections 12 and 13 of the Federal Employees' Compensation Act, pertaining to the determination of the employee's pay or his wage-earning capacity, may, in the interest of justice and in the discretion of the Administrator, be applied in any case, irrespective of the date of injury or death, so as to cause payments of compensation, with respect to any period not earlier than the first day of the first month after enactment of this Act, to be consistent with such amendments.

TIME LIMITATIONS NOT EXTENDED

SEC. 304. Except as otherwise expressly provided, the enactment of this Act shall not suspend or defer the running of the time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and filing of a claim for compensation.

ACCIDENT PREVENTION AND ANNUAL REPORTS

SEC. 305. Section 33 of the Federal Employee's Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections "(a)" and "(b)" and by adding a new subsection designated as "(c)", as follows:

"(c) In order to reduce the number of accidents and injuries among Government officers and employees; encourage safe practices; eliminate work hazards and health risks; and reduce compensable injuries; the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion; and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section; and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this Act."

TITLE IV

LIBERALIZATION OF MINIMUM AND MAXIMUM COMPENSATION FOR EMERGENCY RELIEF WORKERS

SEC. 401. (a) Clauses (a), (b), and (c) of the second proviso to section 1 of the Act approved February 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended to read as follows:

"(a) that the aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of \$4,000 and that the monthly monetary compensation shall not in any event exceed \$100, both exclusive of medical costs;

"(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as provided by section 10 (K) of such Act, the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$75 and compensation shall be payable on the basis of such pay regardless of the

actual pay at the time of injury or death, except that the Federal Security Administrator may from time to time, by regulation, fix a lower minimum monthly pay as a basis for computing such compensation as to any class of individuals, specified in the fourth paragraph of section 42 of such Act, as amended, who sustained injury or were killed outside the continental United States;

"(c) that the Federal Security Administrator may from time to time subject to the above limitations, establish a special schedule of compensation for disability and for death (including a special schedule of compensation for the loss, or loss of use, of members or functions of the body), and compensation under such schedule shall be in lieu of all other compensation in such cases;"

(b) The first proviso to section 8 of the Emergency Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352, 356), and the first proviso to section 16 of the Emergency Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809, 814), are repealed.

(c) This section shall apply to any case heretofore or hereafter coming within the purview of such Act of February 15, 1934, but no compensation shall, with respect to any case of injury or death occurring before the date of enactment of this Act, accrue or be increased by reason of the enactment of this section for any period prior to the first day of the first month following the date of enactment of this Act.

(d) The special schedule of compensation heretofore established pursuant to clause (a) of the second proviso to section 1 of such Act of February 15, 1934, shall remain in effect until superseded by a new schedule established pursuant to the amendments made by this section.

MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

SEC. 402. Effective as of July 25, 1947, paragraph a of section 2 of the Act approved July 25, 1947 (ch. 327, 61 Stat. 449, 451), is amended by striking out the semicolon at the end of the provision repealing the Act of July 1, 1943 (57 Stat. 371), and the Act of May 14, 1942 (56 Stat. 278), as amended, and inserting in lieu thereof a colon and the following proviso: "*Provided, That section 11 of such Act of May 14, 1942, shall remain in effect to the extent specified in section 5 of such Act of July 1, 1943;*"

Passed the House of Representatives June 30, 1949.

Attest:

RALPH R. ROBERTS, *Clerk.*

GENERAL STATEMENT

In view of substantial and repeated increases in wages and living costs which have taken place during the 22-year period since the last amendment of the Federal Employees Compensation Act, a revision of the benefit provisions of that act was deemed necessary to afford injured employees and their dependents the same relative security which was provided for them in the past.

The Federal Employees Compensation Act was enacted September 7, 1916. During the nearly 33 years of its existence, the benefit provisions have received only one revision, namely, a modification of benefit rates made in 1927.

At present, the maximum compensation payable in any case of injury or death is \$1,400 a year, an amount wholly insufficient to enable a disabled employee or the family of a deceased employee to meet ordinary living expenses under prevailing economic conditions.

The result of this inadequacy has been to impose upon the disabled worker or his family, the necessity of seeking charity or reliance upon the help of friends. As a matter of common justice, your committee believes that the Government should restore to such employees that measure of security necessary to enable them to maintain themselves.

The President, in his budget message of January 3, 1949, recognized this inadequacy and recommended liberalization of the benefit rates under the act. The principal directive of the bill is to accomplish this purpose. The bill also provides for a slight increase in compensation for disabled employees who have dependents to support. The death benefit provisions would be liberalized along parallel lines with minor adjustments designed to give the widow and children of the deceased a more substantial degree of protection than the act now affords. Provision is made for weekly payments of compensation as indemnity for the loss or loss of use of members or functions of the body or for permanent cosmetic disfigurement. Provisions of this kind are to be found in practically all other workmen's compensation laws in this country.

The bill includes a number of technical amendments and refinements which are designed to facilitate administration, to reduce costs, and to make more just and accurate the computations involved in the adjudication of claims.

It is contemplated to extend coverage provisions of the act to bring within its protection, in addition to the employees now covered, all civilian officers of the Government in its three branches, as well as persons who render personal services to the United States without, or for nominal, compensation where statutory provision is made for the acceptance of service or for the payment of travel or other expenses of such persons. This inclusion will remove a long existent major discrimination (as well as an obscure line of demarcation) between civilian "officers" and "employees" which so far as workmen's compensation is concerned has produced only harsh results.

Provisions of the act dealing with safety and accident prevention are strengthened. The amendments also include provision for the adjustment of the compensation base in the cases of persons already on the benefit rolls whose compensation would not otherwise be adequately affected by the amendments in view of the very low rates of pay these employees received when injured. In no event may compensation based upon one person's misfortune exceed \$525 per month.

SUMMARY OF PRINCIPAL PROVISIONS

(1) An increase in the maximum family benefit from 66⅔ to 75 percent of pay in both disability and death cases. Under the bill a disabled person without dependents would receive the 66⅔-percent rate and a person with one dependent (wife, child, or parent) would receive 8⅓ percent more, but for periods of temporary total disability the augmentation for dependents would be based only on that part of monthly pay not in excess of \$420. In no event may compensation based upon one person's misfortune exceed \$525 per month.

(2) Increase of the flat maximum benefit amount for any disability from \$116.66 to \$525 per month and an increase from \$58.33 to \$112.50 in the monthly minimum benefit for total disability and corresponding increase of the maximum monthly pay which can be considered in death cases, and increase from \$87.50 to \$150 in the minimum monthly pay to be considered in such cases.

(3) Increase in death benefits from 35 to 45 percent to a widow or dependent widower without child, and from 35 to 40 percent to a widow or widower where there is a child; where there is a widow or

widower but there are one or more children, a further increase from 10 to 15 percent for each child, and, where there is no widow or widower, an increase from 25 to 35 percent for the first child and from 10 to 15 percent for each additional child. No increases for other dependent survivors are provided.

(4) Inclusion of a "schedule" for loss, or loss of use, of a member or function of the body, and for disfigurement. Those losses for which the bill provides a scheduled disability and the compensable periods for such are identical with the provisions of the Longshoremen's Act as amended in 1948, and constitute a distinct liberalization in comparison with the one now in use.

(5) Increase of maximum allowance for an attendant for a helpless disabled employee, from \$50 to \$75 per month and discretionary provision for up to \$50 per month to an employee directed to undergo vocational rehabilitation, with payment of rehabilitation cost (with some exceptions) out of the compensation fund.

(6) Increase from \$200 to \$400 in burial benefits where death results from the injury, and authorization to provide a casket and to transport the body should the injured employee die while away from home and undergoing treatment or examination.

(7) Extension of coverage so as to include, in addition to persons now covered, (a) civilian officers, as distinguished from employees, of the United States in all three branches of the Government, and (b) persons rendering personal services to the United States without compensation or for nominal compensation.

(8) The wage base for certain beneficiaries already on the rolls which was used in computing their benefits, would be increased to take account of the rise in wage rates.

(9) The provisions for computation of pay on which to base compensation under the act have been amended so as to exclude, in addition to overtime pay, certain extra allowances and so as to bring the computation in line with the Longshoremen's Act and other workmen's compensation laws. Special provisions in this respect had to be included for persons serving without pay or for nominal compensation. Appropriate corresponding amendments are included for computation of wage-earning capacity for partial-disability cases.

(10) The provisions for adjustment or recovery of overpayments were amended to make them less harsh.

(11) The remedy under the Federal Employees' Compensation Act is made exclusive.

(12) Payment for the 3-day waiting period is provided where the disability lasts beyond 21 days.

(13) In addition, a provision eliminating the \$4,000 ceiling on aggregate compensation for emergency relief workers insofar as compensation for permanent total disability or death is concerned, and increasing prospectively from \$50 to \$100 the maximum monthly benefit amount and providing for a \$50 monthly minimum benefit for such workers, is included, and authority to continue on the benefit rolls remaining cases of injured or killed members of the former Women's Army Auxiliary Corps is clarified.

(14) Provision is made for fixing fees of claimants' representatives.

(15) Authorization is made for a safety council advisory board to the Federal Security Administrator and for the development and support of a safety program in the various Government agencies.

(16) Provision is made for employing establishments to provide the initial furnishing of medical and other benefits under section 9 (a), and for payment of such expense upon certification by the reporting officers of the establishment.

The above summary is enlarged upon in the following sectional analysis of the bill.

TITLE I—SUBSTANTIVE AMENDMENTS

Section 101: Most State workmen's compensation acts require the employee to be paid compensation withheld during the so-called waiting period if disability should be prolonged beyond a certain period. This section, amending section 2 of the act would permit payment for the first 3 days if disability should last longer than 21 days. Section 8 also is amended to conform to this feature and in addition, the reference in section 8 to approval of leave by the head of the department has been omitted as it is unnecessary, and the injured employee should be entitled, if he so desires, to exhaust his annual and sick leave with full pay before drawing compensation under the act.

Section 102: This section would amend section 3 of the act which at present relates to benefits for total disability. It is divided into two subsections, (a), containing the present language of section 3, and in addition defining the compensation therein provided as "basic compensation for total disability," thereby distinguishing it from the additional compensation proposed by the amendment for disabled workers having one or more dependents, and (b) treating the loss or loss of use of both hands; arms, feet, legs, or eyes, as constituting *prima facie* permanent total disability. Such major disability is ordinarily regarded in other workmen's compensation laws as involving presumptive permanent total disability. It is the purpose of this provision to make it unnecessary ordinarily to determine loss of wage-earning capacity in such class of cases where the employee has only meager, inconsequential, or sporadic earnings which do not in themselves reflect a substantial wage-earning capacity of the individual. The *prima facie* existence of permanent total disability is intended to be overcome only upon a showing of substantial rehabilitation of the employee or proof of substantial wage-earning capacity after injury. The provision is somewhat similar to that in section 8(a) of the Longshoremen's and Harbor Workers' Compensation Act (33 U. S. C. 908(a)).

Section 103: Subsection (a) of this section would amend section 4 of the act by dividing that section into two subsections. As so amended, (a) (1) would contain substantially the same language as in the present section except to define the compensation as the "basic compensation for partial disability," thus conforming with the amendment proposed for section 3 of the Compensation Act as amended and distinguishing the basic compensation from the allowance for dependents under section 6; (a) (2) as amended by the bill, would contain in clarified and modified form that part of present section 4 relating to the reporting of earnings with penalty for failure to report earnings. One change would authorize the Administrator to accept unsworn reports of earnings in lieu of affidavits. Another provides for forfeiture for any period during which an employee

knowingly omits or understates his earnings in his report of earnings after injury, a situation not provided for by the present act. Subparagraph (b) contains language now in section 5 of the Act. The rearrangement was made to permit the inclusion of new material in section 5. Subsection (b) would amend section 39 of the act to insert the words "or report" so as to include within the penalty provisions in such section not only a false "affidavit" but as well a false "report" of earnings, this making for consistency with section 4 (a).

Section 104: As above noted, the present text of section 5 of the Compensation Act would be transferred to section 4 of the act by section 103 (b) of the bill, in order to make section 5 available for new material. As rewritten by section 104 of the bill, section 5 of the act would contain entirely new provisions consisting of a schedule of compensation for the total or partial loss or loss of use of a member or function of the body, such as the loss of an arm, leg, sight, hearing, etc., and for disfigurement. A schedule feature of this kind will be found in practically all workmen's compensation laws, singling out and providing an indemnity for permanent loss or impairment certain readily identifiable members or functions.

Under the present act an employee may receive compensation to the extent of 66⅔ percent of whatever loss he has sustained in wage-earning capacity as caused by the injury. Unless the injury results in wage loss, no compensation can be paid. The absence of a schedule covering members and functions of the body has presented two principal difficulties, the first of which is the extreme difficulty in determining fairly and objectively the precise extent to which a particular physical impairment diminishes the injured employee's wage-earning capacity. A particular physical impairment to a member or function of the body does not always cause a proportional reduction in earning capacity. An employee having a loss of a member or function may be able to return to employment without apparent wage loss. In that event, notwithstanding the severe physical loss to him, he may not under the present act be paid compensation for his physical impairment. It is understandable that employees with such losses expect some form of indemnity for their loss.

The bill adopts the most frequently used approach, namely, the establishment of a schedule for such particularized permanent disability, including serious disfigurement of face, head, or neck, with one principal modification. Should an injury result in permanent major impairment such as the total loss or loss of use of an arm, hand, leg, foot or eye (including loss of binocular vision) or the total loss of hearing in both ears, the scheduled indemnity would, in most cases, be seriously inadequate. This inadequacy is provided against by permitting the employee, upon expiration of the compensable period specified in the special schedule to offer proof of impairment of his wage-earning capacity and if such incapacity should continue, and in such cases the regular compensation rate based upon impairment of wage-earning capacity would apply. The theory of the schedule in such cases is that it is minimal rather than exhaustive and would provide for those cases where the employee has been unable to return to employment with earnings equivalent to those at time of injury. The employee would be compensated in the same manner thereafter as now provided in the act. In view of this approach, the schedule would be applicable to all cases involving total loss or loss of use of

major members including cases of permanent total disability, except that payments for continued disability involving loss of earning capacity would not begin to run until the scheduled weekly payments have been exhausted. In these major injury cases, moreover, the fact that the claimant may have sustained other injuries as well (e. g., a back injury), would not preclude the application of the schedule followed by regular disability compensation if there is continual loss of wage-earning capacity. The disfigurement provision of the schedule also applies regardless of other injuries.

Included in this section are provisions under which any scheduled award remaining unpaid should an employee die before receiving full payment, would pass to his dependents as specified. The balance of a scheduled award would be paid only if the employee should die from causes other than the injury because in the event of death resulting from the injury the surviving dependents are entitled to death benefits and the beneficiaries are arranged in order of priority and are selected from the classes of beneficiaries recognized in the death benefit provisions. Should there be no such beneficiaries or should they die before receiving full payment, any balance remaining could be used to defray the employee's burial expenses. Any further balance not so applied would lapse. The disposition of unpaid scheduled awards is provided for in a manner similar to that in the New York law and Longshoremen's Act.

Section 105: This section would amend section 6 of the act, completely revising that section by adding new provisions and amending existing provisions. Section 6 now contains flat minimum and maximum limitations upon monthly compensation for disability, provisions for an attendant's allowance for helplessly disabled persons and provisions by which the amount of monthly pay used for determining compensation may be increased in the case of minors or learners upon attaining adulthood or maturing from learner's status and may decrease for adults upon reaching old age if old age would probably have reduced their wage-earning capacity irrespective of the injury. It is proposed to divide this section into four subsections. Subsection (a) would slightly increase the percentage of the monthly pay used in computing disability compensation, in cases in which the employee has one or more dependents as defined in that section. At present, the monthly compensation for total disability cannot exceed 66½ percent of the employee's monthly pay, with the same percentage applying in case of partial disability to the difference between the monthly pay and the monthly wage-earning capacity after the injury. This percentage of the wage will be found in most State workmen's compensation laws and is in the Federal Longshoremen's Act. This subsection would give to a disabled employee who has a dependent wife, child, or parent 8½ percent in addition to the 66½ percent of the monthly pay in the case of total disability, and an additional 8½ percent of the difference between pay at time of injury and reduced pay after return to work for partially disabled employees. A committee amendment, however, permits the dependent's allowance under this subsection with respect to periods of temporary total disability to be based only upon that part of the employee's monthly pay at time of injury which is not in excess of \$420. This principle of augmenting basic compensation for disabled workers with dependents

will be found in other workmen's compensation laws. Section 6 (a) precisely limits the circumstances under which a wife, child, or parent may be considered a "dependent" of the employee. Subsection (b) (1) of section 6 as amended by the bill, would increase the allowance for an attendant for a helplessly disabled employee from the present \$50 to not exceeding \$75 a month, and would clarify the present law as to the kind of disability cases in which such an allowance may be paid. Subsection (b) (2) would add a new feature authorizing payment of not to exceed \$50 per month in the Administrator's discretion, to disabled individuals undergoing vocational rehabilitation pursuant to the Administrator's discretion.

Subsection (c) would provide a new floor or minimum compensation of \$112.50 per month (the present law provides \$58.33) for total disability except that, as under the present act, where the monthly pay is less this "minimum" compensation for total disability could not exceed the full monthly pay. In no event will the compensation based upon one individual's disability exceed \$525 per month. The bill, as amended, recognizes that the 1927 schedule is completely unrealistic and outmoded. So far as economically reasonable, it accepts the principle that compensation should be a consistently fair proportion of the economic loss.

Subsection (d) (1) contains the present provisions for redetermination of compensation for learners and minors and aged persons, with a slight technical revision to facilitate administration.

Subsection (d) (2) would impose a sanction upon any employee, who, without good cause, fails to apply for or undergo vocational rehabilitation, when so directed by the Administrator. Under this provision his monetary compensation may be reduced to accord with such wage-earning capacity as he probably would have had should he have accepted rehabilitation.

The net effect of the changes and additions as outlined above would be to increase slightly (by $8\frac{1}{2}$ percent of the loss of earnings) the basic compensation of $66\frac{2}{3}$ percent of the pay loss. This gives recognition to the greater need of the disabled employee with a dependent or dependents than that of a single employee and would serve to prevent families from falling behind financially during the crisis occasioned by industrial injury. This principle is recognized in some of the other workmen's compensation laws in this country and abroad.

The increase of \$25 per month in the amount available for pay to an attendant for helpless individuals is in recognition of the general advance in cost for personal services. The provision under which not to exceed \$50 per month may be paid to disabled individuals undergoing vocational rehabilitation pursuant to the Administrator's direction is necessary in order to secure real cooperation on the part of disabled workers who otherwise might justly feel it necessary to reject rehabilitation because of additional financial burdens which are often placed upon them incident to attending training away from their homes and families. A two-way benefit would be derived by this provision; namely (1) the individual would be made self-sustaining through vocational rehabilitation, and (2) compensation costs would be reduced.

Section 106: This section is divided into five subsections, all dealing with the death-benefit provisions of the statute.

Subsection (a) would amend in several respects section 10 of the act, a section which specifies distribution of death benefits. The changes in the death-benefit provisions are as follows:

The combined aggregate maximum of monthly compensation for all surviving dependents would be increased from 66½ to 75 percent of the employee's monthly pay. Only in some cases would the death benefits amount to 75 percent of the monthly pay, namely, those cases in which there should be enough survivors in the several classes of dependents whose percentages, when added together, would total 75 percent of the employee's pay. Since the principle of augmenting by 8½ percent the percentage payable to a disabled employee having one or more dependents would be established by the bill for disabled workers, thus permitting a maximum compensation rate of 75 percent for the family in disability cases, a like recognition of the greater need of a large family group is expressed by such increase to 75 percent of the monthly pay in death cases. The present limitation of 66½ percent of the monthly pay is not sufficient to afford reasonable economic security to the family of the deceased worker where the family is large. The increase in the over-all family maximum is also necessary to give true effect to the increase in the individual percentages for the surviving spouse and children mentioned below, and to prevent making the statutory rates for other dependents illusory.

Readjustment has also been made in the percentages of the decedent's monthly pay, payable as compensation to a widow (or dependent widower) and children. A widow (or dependent widower) would receive 45 percent of the decedent's monthly pay should there be no child, but if there should be a child, such widow (or dependent widower) would receive 40 percent (under the present law the surviving spouse would be entitled to 35 percent in either case). In addition, 15 percent of the monthly pay is provided for each child as compared with 10 percent under the present law. Where there is no widow or dependent widower, 35 percent (instead of the present 25 percent) would be paid for the first child, and 15 percent (instead of 10 percent) for each additional child, share and share alike.

Subsection (b) would amend clause (K), of section 10 of the act by increasing the minimum monthly pay used in computing death benefits from \$87.50 to \$150 with increase of the flat dollar ceiling in accordance with changes in the corresponding provisions of section 6 (c), explained above.

Subsection (c) would further amend clause (B) of section 10, so as to make entitlement of a widower dependent upon his being wholly dependent upon the deceased for support by reason of his physical or mental disability, the present law requiring the widower only to be "wholly dependent."

Subsection (d) would delete from clauses (C), (D), and (G) of section 10 a provision which now requires that compensation for a minor be paid to the minor's guardian. This amendment has proved burdensome in administration, especially where a minor has no legal guardian and the amount involved is small. It is the purpose of this amendment to permit the Administrator to cause payment to be made directly to the minor or to some other person for his use and benefit where the interest of the minor would be served thereby.

Subsection (e) would broaden clause (L) of section 10 which provides a penalty for accepting compensation after marriage, so as to

make the same penalty applicable in parallel situations which could arise by reason of the proposed amendments to sections 5 and 6.

Section 107: Section 11 of the act would be amended by increasing from \$200 to \$400 the maximum amount authorized for funeral and burial expenses. A similar increase of \$400 was recently enacted in respect to the (Federal) Longshoremen's and Harbor Workers' Compensation Act. The amount of burial expenses payable would be the actual amount, but not to exceed \$400. Additional language has also been included authorizing the return home or other disposition of the remains of an employee dying from causes other than his injury while away from home for the purpose of receiving medical or other treatment or services under the act.

Section 108: This section would amend section 40 of the act, containing so-called coverage provisions. The definition of "employee" includes within the coverage of the act all civilians rendering personal service to the Federal Government. The principal additions to coverage would be civilian officers of the United States in all of its branches, including officers and employees of instrumentalities of the United States wholly owned by it. Included also would be persons rendering personal services to the United States without compensation or for nominal compensation, but only on the condition that the acceptance or use of such services is authorized by an act of Congress or that provision has been made by law for the payment of the travel or other expenses of such persons while rendering personal services for the United States.

The inclusion of civilian officers within the act was for many years recommended by the former United States Employees' Compensation Commission in its annual reports to the Congress. Over the years many bills were introduced to accomplish this inclusion, one of them in 1943 having passed the Senate. Recommendations for amendment to enlarge the definition of "employee" to include civilian officers were at various times made by the Secretary of State, the Attorney General, the Reconstruction Finance Corporation and other Federal agencies. During the recent war, the urgency of extending workmen's compensation benefits to civilian officers was stressed by the Secretary of State who was particularly interested in the situation confronting officers of the American Foreign Service, who were exposed to great physical dangers and risks against which they were unable to provide at their own expense. Included among the officers who would henceforth be within the protection of the act would be the postmasters of the classes heretofore excluded because they were "officers."

There are substantial and valid reasons for the inclusion of civilian officers within this protection. Civilian officers of the three branches of the Government are frequently subjected to many of the same risks and hazards while in the performance of their duties as their subordinate employees. This is particularly true as regards the risks of travel. It is a necessary act of justice that they or their dependents should be protected by this law while they are engaged upon their official duties. In an earlier recommendation upon this feature the Attorney General pointed out that coverage of officers would abrogate discrimination and would fill a gap in the existing statutory structure. Moreover, it has been necessary in the past to attempt to recognize and conform to the vague distinction between "officers" and "employees" of the United States, since the former had not been protected

by the act. The difficulty in making this distinction may be better understood by reference to the full opinions of the Attorney General (namely, 31 Op. 184, and id. 201).

[1] Moreover, while the act of March 3, 1905, as amended (31 U. S. C. 665), prohibits the departments and officers of the Government from accepting voluntary service for the Government and from employing personal services in excess of that authorized by law (except in case of sudden emergency involving the loss of human life or the destruction of property) certain agencies in recent years were specifically authorized by Congress to accept the personal services of individuals for the United States on an uncompensated basis. Other agencies have received specific appropriations for the payment of transportation and other expenses of persons serving without, or for nominal, compensation, or in advisory capacities. Under such authority many persons with exceptional ability and skills have faithfully served the United States in the performance of service of a kind which they would have performed had they been regularly employed by the United States, but in so doing they have served without any protection whatsoever under the act. In some cases the Congress has attempted to do justice to such individuals or their survivors by way of private acts, but this method of dealing with these case situations is obviously and inherently discriminatory, haphazard, and unsatisfactory method of dealing with the problem. Section 203, explained below, specifies a method of determining the compensation base in such cases.¹¹

Section 109: This section contains transitional provisions related directly to the payment of benefits in certain cases. Any liberalization of benefits in general will apply prospectively to cases of employees now in receipt of, or entitled to, compensation, whose disability or death was caused by injury prior to enactment of the amendments. Little, if any, benefit would be derived from such liberalization in the cases of those individuals who were injured or killed in years past before the sharp rise in living costs. For example, if an employee without dependents is receiving 66⅔ percent of his old low rate of pay, he would not unless specifically provided for, benefit under the bill. Even if when there are dependents the compensation should be increased to 75 percent of the old low rate of pay, the death benefits would still be grossly inadequate. As the compensation rate in many pending cases is fixed in relation to an old rate of pay, it will be necessary, if many beneficiaries on the rolls are to receive sufficient increase for subsistence, to provide specifically for them. Section 109 would add to this conservatively by increasing by 40 percent the amount of the "monthly pay" at the time of injury (which monthly pay is the unit basis for computation of compensation) if the injury occurred before January 1, 1941, or by 10 percent if the injury occurred on or after that date, but before July 1, 1946, provided that such increase shall not, in any event, exceed \$50. This percentage and this figure have been arrived at after consideration of the average increase in the pay of Federal employees. Since under the Compensation Act the compensation is computed on the basis of pay which the employee received at the time of injury, these increases will apply to any death case in which the injury from which the death resulted occurred before the dates specified, regardless of the date on which death ensued.

The committee's attention was called to a different timing of the increase in the pay of employees in the postal service. In order to

prevent injustice to postal employees, the committee has made special provision to fit their cases.

TITLE II—TECHNICAL AMENDMENTS

Section 201: Section 7 of the act would be amended by designating the present language as subsection “(a)” and by adding a new subsection “(b).” The purpose of the latter is to make it clear that the right to compensation benefits under the act is exclusive and in place of any and all other legal liability of the United States or its instrumentalities of the kind which can be enforced by original proceeding whether administrative or judicial, in a civil action or in admiralty or by any proceeding under any other workmen’s compensation law or under any Federal tort liability statute. Thus, an important gap in the present law would be filled and at the same time needless and expensive litigation will be replaced with measured justice. The savings to the United States, both in damages recovered and in the expense of handling the lawsuits, should be very substantial and the employees will benefit accordingly under the Compensation Act as liberalized by this bill.

Workmen’s compensation laws, in general, specify that the remedy therein provided shall be the exclusive remedy. The basic theory supporting all workmen’s compensation legislation is that the remedy afforded is a substitute for the employee’s (or dependent’s) former remedy at law for damages against the employer. With the creation of corporate instrumentalities of Government and with the enactment of various statutes authorizing suits against the United States for tort, new problems have arisen. Such statutes as the Suits in Admiralty Act, the Public Vessels Act, the Federal Tort Claims Act and the like, authorize in general terms the bringing of civil actions for damages against the United States. The inadequacy of the benefits under the Employees’ Compensation Act has tended to cause Federal employees to seek relief under these general statutes. Similarly, corporate instrumentalities created by the Congress among their powers are authorized to sue and be sued, and this, in turn, has resulted in filing of suits by employees against such instrumentalities based upon accidents in employments.

This situation has been of considerable concern to all Government agencies and especially to the corporate instrumentalities. Since the proposed remedy would afford employees and their dependents a planned and substantial protection, to permit other remedies by civil action or suits would not only be unnecessary, but would in general be uneconomical, from the standpoint of both the beneficiaries involved and the Government.

Section 202: This section would designate the present text of section 9 of the act as subsection “(a)” and would add thereto a new subsection designated “(b)” which would authorize the Administrator to direct any permanently disabled employee to undergo vocational rehabilitation. It would also require the Administrator to make provision in such cases for rehabilitation services, utilizing, so far as practicable, the services and facilities of existing agencies. The cost of providing such services would be a direct charge against the employees’ compensation fund, except as to certain expenses for which State vocational rehabilitation agencies are being reimbursed

in full under the Vocational Rehabilitation Act. These provisions are deemed necessary to afford rehabilitation to employees for gainful employment which, as pointed out above in the analysis of section 105, is ultimately for the benefit both of the employees and the Government, in the saving of compensation costs and in reestablishing the employee's earning and taxpaying ability. In order to provide uniformity in the case of services necessary for rehabilitation, and since the necessity for rehabilitation arises directly out of an injury in Federal employment, the expense incident to furnishing services should be borne directly by the employees' compensation fund, except to the extent indicated.

Section 203: This section would revise completely the language of section 12 of the act which at present is wholly inadequate for making just determinations in respect to an employee's monthly pay for the purpose of computing benefits. The bill provides for a section of two parts, one defining the elements of pay to be considered, the other regulating the method of computing such pay.

The bill would retain so much of the old language as requires the taking into account of elements of pay in kind, such as the value of subsistence and quarters, and would include other forms of remuneration in kind for services, providing the value thereof can be estimated in money. The exclusion of overtime pay from such computation of monthly pay is retained, and also excluded are such elements as additional pay or allowance authorized outside the United States because of differential in cost of living, etc., and bonus or premiums paid for extraordinary services, as such pay constitutes bias factors and prevent proper and equitable computation of compensation.

Included in the revised section is a complete formula for determining the monthly pay of an employee, which consists of an adaptation of similar provisions which may be found in section 10 of the Longshoremen's and Harbor Workers' Compensation Act (33 U. S. C. 910). These provisions are also similar to comparable provisions in the New York workmen's compensation law which have operated effectively for many years. A general formula of this kind will be found in most workmen's compensation laws. Such formula is time tested and as nearly accurate as a formula can be made for the just and proper determination of an employee's monthly pay for computation purposes. Additional provisions, however, had to be included for the computation of "pay" where services were performed without pay or for nominal pay; for such cases the bill provides that the "pay," which is used as the basis for determining benefits, shall not exceed the basic pay for the regular top CAF and professional grades. In order to meet every possible situation that can be foreseen, the bill further provides that if the formulas therein cannot reasonably and fairly be applied to the case of an employee serving without pay or at nominal pay, the reasonable values of the employee's services shall be determined, but not in excess of \$3,600 per annum.

Section 204: This section would amend section 13. The elements to be taken into consideration in determining wage-earning capacity after injury, particularly after an injured employee returns to work, would be the same as used under revised section 12 (b) in determining monthly pay at the time of injury, so that elements of equal import may be considered, thus making possible a more nearly just appraisal of the effect of an injury upon an employee's wage-earning capacity.

In addition, a subsection designated (b) specifies certain factors to be considered in determining wage-earning capacity in a manner closely following the pattern of section 8 (h) of the Longshoremen's Act (33 U. S. C. 908 (h)).

Section 205: This section would merely reflect the fact that the Federal Security Administrator or the person to whom he may delegate his powers, is charged with the administration of the act.

Section 206: This section would amend section 38. Present statutory language does not afford a basis for proper and equitable adjustments where overpayments have been made. The bill would divide section 38 into three subsections, the first of which would authorize the Administrator to recoup, out of the beneficiary's subsequent benefits, overpayments made to an individual because of an error of fact or law, but to spread such recoupment so as not to cause hardship, and to apply a similar process in respect to any benefits payable on account of such individual's death.

Subsection (b) would eliminate the necessity of imposing upon a beneficiary the burden of making repayment of an incorrect payment where the individual is without fault and where adjustment or recovery would defeat the purposes of the Act or would be against equity and good conscience. Where recoupment and recovery are not waivable under this subsection, however, and recoupment under subsection (a) is not possible, recovery through other means is, of course, not intended to be precluded.

Subsection (c) contains provisions designed to harmonize with those in subsections (a) and (b), and would eliminate the possibility of a certifying or disbursing officer being held liable in cases in which recoupment or recovery is waived under such section or is not completed prior to the death of all persons against whose benefits recoupment is authorized. All of the provisions are analogous to those contained in section 204 of the Social Security Act, as amended.

Section 207: This section would add a new section, No. 43, to the act to give it the short official title "Federal Employees' Compensation Act."

Section 208: This section would clarify present section 23 of the act concerning physician's fees, and would designate such provisions as subsection (a). Subsection (b) would provide for the fixing of attorney's fees, a provision necessary for the protection of claimants against excessive fees. Similar provisions will be found in other comparable legislation; compare section 28 of the Longshoremen's and Harbor Workers' Compensation Act.

Subsection (c) is intended to require obedience to orders, processes, etc., issued or required in the administration of the act and to provide a sanction for disobedience of a lawful order or process or for misconduct which obstructs a hearing under the act. See section 27, as amended, of the Longshoremen's Act, 33 U. S. C. sec. 927.

TITLE III—TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

Section 301: This section contains transitional provisions designed to extend in certain cases the time limitations in the act which are applicable to the giving of notice of injury and the filing of claim for compensation. The section is applicable only to cases of injury or death which occurred outside the United States during the period of

actual hostilities or within 1 year thereafter. In such cases the time limitations would not begin to run until the date of enactment of the present measure. This provision is necessary because compliance with time limitations in many cases was difficult or impossible because of disruption of communications and the confusion caused by the war in certain areas affected by hostilities.

Section 302: This provision is intended to make it clear and unmistakable that the enactment of the amendments shall not be construed as giving rights to the reopening of cases in which individuals have been paid compensation or benefits pursuant to private relief legislation, and thus have had their claims satisfied. This provision also includes cases compromised and settled as the result of any action sounding in tort or under maritime law, and cases settled by lump-sum awards.

Section 303: This section provides for the dates upon which various provisions of the bill would become effective and is, in most parts, self-explanatory. The net effect is to make certain that the readjustment in the amount of benefits provided under the amendments (specifically mentioned in sec. 303) will be applicable, for the most part, prospectively as to cases of injury or death that occurred prior to enactment, in a manner similar to the increases in benefits in 1927 which were applied prospectively in the then pending cases.

Subsection (d) of section 303 is designed primarily to employ the usefulness of the schedule, provided for in the amendment to section 5 of the act, in cases already on the rolls. This has been done by making the schedule applicable to any case in which the injury occurred within 1 year prior to enactment, provided that where injury occurred prior to enactment (except in major injury cases as specified in sec. 5 (b) and disfigurement), the employee would not be entitled to receive under the schedule unless he elects to do so within 1 year following enactment. If he should so elect, compensation heretofore paid for permanent disability involving a member or function of the body would be credited against any compensation under the schedule.

As to major member losses, that is, losses of an arm, hand, leg, foot, eye, or total permanent loss of hearing of both ears, all of which are specified in section 5 (b), and as to disfigurement, the schedule provisions are to be applicable to all cases where the injury occurred on or after January 1, 1940. This takes into account the fact that, from such date forward, most employees worked under stresses and pressures arising from the national emergency and frequently under conditions of relatively greater hazards than during peacetime. In addition, such major losses occurred during the period of sharply rising wages and living costs which imposed greater financial burdens upon these severely handicapped employees than in times prior to 1940.

It should be pointed out that the bill does not retroactively grant any benefits for any past periods of disability nor are death benefits increased for any past period. All changes in benefit payments by virtue of the introduction of a schedule would accrue prospectively in the same manner as though injury or death occurred after enactment of the measure. The bill would apply the new benefit provisions to old cases upon an equitable and properly selective basis with the new provisions operative as to future periods of time, except as to awards for disfigurement which involve a lump-sum payment

for disfigurement. Duplication of benefits is intentionally avoided. For example, where the new schedule of indemnities for loss of members, etc. (the amendment of sec. 5), is to be applied in an old case, the payment for a minor scheduled injury (such as finger, toe, etc.) which an employee might elect to receive under the new provisions would be reduced by the amount the employee had received in respect to disability arising solely from the same loss under the old act. In the cases of major losses (of the leg, etc.) the employee would receive only the amount provided by the schedule during the period specified by the schedule and after the exhaustion of that amount his case would fall directly into the same category in respect to any further compensation as the case of an employee injured after enactment of the measure.

Increased burial payments and other amendments to section 11 of the act would apply only to deaths occurring after enactment.

As regards the proposed enlarged coverage of the act to include civilian officers and others, provision has been made for prospective benefits in such cases if injury or death occurred on or after December 7, 1941, but only as to those cases in which the individual suffered permanent partial or permanent total disability or has died. The time limitations for the giving of notice of injury and the filing of claim for compensation in such cases would not begin to run until enactment of the bill.

The amendment to section 7 of the act, making the remedy thereunder exclusive, would apply regardless of the date of injury or death, unless liability other than that under the act has been finally determined.

Section 304: This section is designed to make it clear that the time limitations of the act with respect to the giving of notice and the filing of claim for compensation shall not be affected by reason of enactment of the measure, except to the extent the bill expressly provides, and is thus intended to eliminate any possible ambiguity which the passage of the bill and its partial application to injuries and deaths occurring before enactment might otherwise create.

Section 305: This section would amend section 33 of the act by designating the first two paragraphs thereof as subsections "(a)" and "(b)" and by adding a new subsection "(c)" which relates to safety promotion. As commented upon below, the committee would remove section 305 from title III and place it as section 209 in title II. The safety provision in new subsection "(c)" would authorize the President to establish by Executive order a safety council composed of representatives of Government departments and agencies to serve in an advisory capacity to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to section 33 of the Compensation Act. With this addition to the act, it should be possible for the Administrator to accomplish greater and more effective results in safety and accident prevention than can be accomplished at present under the limited authority in the act and there should be drawn together more closely the various safety programs carried out within the Government, thus fully exploiting all resources of the Government in accident prevention with the ultimate view to substantial reduction of the toll of human suffering and death through the elimination of preventable causes, which, in turn, should reflect lower compensation costs.

TITLE IV.—LIBERALIZATION OF THE MINIMUM AND MAXIMUM
COMPENSATION FOR EMERGENCY RELIEF WORKERS

Section 401: The provisions of the Employees' Compensation Act were extended in 1934 and at subsequent times to individuals employed by the United States under emergency relief programs. The act, as thus extended, applied only to limited case situations; namely, those arising from traumatic injury, exclusive of disease. The statutory provisions are principally in the act of February 15, 1934 (5 U. S. C. 796). These limited benefit provisions were extended from time to time to other similar groups employed by the United States under similar programs, including enrollees of the Civilian Conservation Corps. While the Federal Employees' Compensation Act was employed for its administrative provisions, the scale of benefits and the over-all or maximum benefit derived under the act, were very limited. The maximum monthly compensation was, ultimately, \$50 (originally \$25 and then \$30), with a further limitation of \$4,000 (formerly \$3,500) as the maximum aggregate compensation which could be paid in any one case. The monthly maximum compensation of \$50 and the over-all limitation of \$4,000 per case have been wholly inadequate to provide even the barest minimum security for those individuals who were permanently and totally disabled as the result of traumatic injury due to their employment. In the cases of most persons thus totally disabled, and in death cases, the \$4,000 maximum limit has been reached. There remains, as an essential act of justice, the necessity of providing for those remaining individuals who are totally disabled as the result of such work injuries, and for the dependents of the deceased workers who were killed as the result of employment causes, all of whom otherwise will be forced upon public or private charity.

Subsection (a) is designed to afford minimal additional relief against the harsh results of the limitations upon benefits applicable in such cases. The effect of the bill would be to provide a ceiling of \$100 per month as the maximum monthly compensation and a minimum of \$50 per month as compensation, with elimination of the \$4,000 limitation upon aggregate payments only as to cases of permanent total disability and death. The bill would make payment of any benefit or increased benefit operate prospectively only and retain the \$4,000 maximum limitation, except in cases of permanent total disability and death.

Subsection (b) of section 401 would repeal those provisions of the Emergency Relief Appropriation Acts of 1937 and 1938 which raised, respectively, first to \$30 and later to \$50, the maximum monthly compensation in such cases and which increased to \$4,000 the aggregate compensation maximum, all of which would be superseded by the amendments to the 1934 act, contained in section 401 (a) of the bill, as above explained.

Section 401 (a) would also permit the Administrator, subject to the specified limitations on aggregate compensation and to maximum and minimum compensation per month, to supersede by a new schedule, adapted to changes since made in the Compensation Act, the special compensation schedule promulgated for emergency relief workers under the 1934 act.

Section 402: A legislative oversight occurred in the enactment of the joint resolution of July 25, 1947 (61 Stat. 449, 451), which was an act

to terminate emergency and war powers. Certain acts were repealed thereby and among them the act of May 14, 1942, which had established the Women's Army Auxiliary Corps (WAAC). The 1942 act contained a section, section 11, which gave to members of such corps the protection of the Employees' Compensation Act. The members of that corps who sustained injuries, and the dependents of members who were killed as the result of service injuries, had eligibility to benefits under the Employees' Compensation Act until July 1, 1943, when the 1942 act which had established the Women's Army Auxiliary Corps was repealed and the (new) Women's Army Corps (WAC) was created. The act of July 1, 1943 (57 Stat. 371), had repealed all of the 1942 act except section 11 thereof which was permitted to remain in effect because of the existing cases of injured or killed members of the abolished corps (WAAC) in cases which had arisen before the effective date of the 1943 repealer act.

The joint resolution of July 25, 1947, again repealed the 1942 act, all of which, except for section 11, had previously been repealed. The net effect of the 1947 act was thus to repeal only section 11 of the 1942 act, thus casting doubt upon the basis for continuing benefit payments in the few remaining and pending injury and death cases which had arisen during the life of the Women's Army Auxiliary Corps (WAAC).

The provisions of section 402 of the bill are designed to restore section 11 of such 1942 act, so as to remove any doubt that a continuing basis will exist for payment under the Employees' Compensation Act in the few pending cases which remain. Research into the legislative history of the particular part of the joint resolution of July 25, 1947, does not disclose any reason whatsoever for the repeal of such section 11. That it was inadvertent may be easily inferred from the circumstances.

CONCLUSION

Some 80,000 of our Federal men and women workers suffer accidents every year. In about 11,000 of these cases benefits for disability or death are payable. The present act affords only illusory security for most workers or their families. The present bill is therefore of vital importance to all Federal workers, not only to those injured, but to those who face the possibility of injury in their employments involving varying hazards. With the knowledge that if injured or killed, they or their families will have a measure of security which will not require solicitation of charity or outside help of friends, the employees of our Government will have the support of a strong moral factor.

The bill will, in many respects, bring the act into line with the State workmen's compensation laws, particularly as regards the schedule feature for payment of indemnities for loss or loss of use of members and functions of the body, and certain technical or administrative features. The benefit provisions have been reappraised to make them most effective and equitable. Safety and accident prevention are stressed with the object of reducing the human toll and the over-all cost of the compensation system.

It is estimated that the added cost of benefits which the amendments will entail will amount to about \$7,000,000 annually—a figure which should diminish in proportion to the effectiveness of Government-wide safety control and accident prevention. The provision added by the House for the payment of indemnities for total loss, or loss of use,

of arms, legs, eyes, etc., resulting from injuries that have occurred since the beginning of the national emergency, will involve a cost of some \$8,000,000 spread over a 6-year period.

The saving to the Government by the elimination of costly and needless claims and litigation under the Federal Tort Claims Act, Suits in Admiralty Act, Public Vessels Act, and the like, which presently weigh heavily upon the Government and involve considerable expense to defend will be eliminated, offsetting in substantial part the increased cost in compensation benefits.

Much saving in compensation costs can also be achieved by prompt and adequate administration. With an increase in the benefits, there will be increased responsibility for the just determination of claims. The Bureau of Employees' Compensation in the Federal Security Agency which administers this act, will need additional funds for administrative expenses, proportionate to its increased responsibility, and for the most effective supervision and investigation of claims.

C

81ST CONGRESS
1ST SESSION

H. R. 3191

[Report No. 836]

IN THE SENATE OF THE UNITED STATES

JULY 1 (legislative day, JUNE 2), 1949

Read twice and referred to the Committee on Labor and Public Welfare

AUGUST 4 (legislative day, JUNE 2), 1949

Reported by Mr. DOUGLAS, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Employees'
4 Compensation Act Amendments of 1949".

5 TITLE I—SUBSTANTIVE AMENDMENTS

6 WAITING PERIOD MODIFIED

7 SEC. 101. (a) Section 2 of the Act approved September
8 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act

1 referred to as the "Federal Employees' Compensation
2 Act"), as amended (5 U. S. C., 1946 edition, sec. 752),
3 is hereby amended to read as follows:

4 "SEC. 2. That with respect to the first three days of
5 temporary disability the employee shall not be entitled to
6 compensation except as provided in section 9, unless such
7 disability exceeds twenty-one days in duration or is followed
8 by permanent disability."

9 (b) Section 8 of such Act (5 U. S. C., 1946 edition,
10 section 758), is amended to read as follows:

11 "SEC. 8. If at the time the disability begins the em-
12 ployee has annual or sick leave to his credit he may use
13 such leave until it is exhausted, in which case his compensa-
14 tion for disability shall not begin, and the time periods spec-
15 ified in section 2 shall not begin to run, until the annual or
16 sick leave has ceased."

17 BASIC BENEFIT FOR TOTAL DISABILITY

18 SEC. 102. Section 3 of the Federal Employees' Com-
19 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
20 753), is hereby amended to read as follows:

21 "SEC. 3. (a) Except as otherwise provided in this
22 Act, if the disability is total the United States shall pay to
23 the disabled employee during such disability a monthly
24 monetary compensation equal to $66\frac{2}{3}$ per centum of his

1 monthly pay, which shall be known as his basic compensation
2 for total disability.

3 “(b) Loss, or loss of use, of both hands, or both arms,
4 or both feet, or both legs, or both eyes or the sight thereof,
5 ~~or of any two thereof~~ shall, prima facie, constitute permanent
6 total disability.”

7 BASIC BENEFIT FOR PARTIAL DISABILITY

8 SEC. 103. (a) Section 4 of the Federal Employees’
9 Compensation Act, as amended (5 U. S. C., 1946 edition,
10 sec. 754), is further amended to read as follows:

11 “SEC. 4. (a) (1) Except as otherwise provided in
12 this Act, if the disability is partial the United States shall
13 pay to the disabled employee during such disability a
14 monthly monetary compensation equal to $66\frac{2}{3}$ per centum
15 of the difference between his monthly pay and his monthly
16 wage-earning capacity, after the beginning of such partial
17 disability, which shall be known as his basic compensation
18 for partial disability.

19 “(2) The Administrator may require a partially dis-
20 abled employee to make an affidavit or other report, in such
21 manner and at such times as the Administrator may specify
22 as to his earnings, whether from employment or self-em-
23 ployment. In such affidavit or other report the em-
24 ployee shall include the value of housing, board, lodging,

1 and other advantages which are part of his remunera-
2 tion for employment or are earnings in self-employment
3 and which can be estimated in money. If such indi-
4 vidual, when required, fails to make such affidavit or other
5 report, or if in such affidavit or report the employee know-
6 ingly omits or understates any part of such earnings or
7 remuneration, he shall forfeit his right to compensation
8 with respect to any period for which such report was re-
9 quired to be made, and such compensation, if already paid,
10 shall be recovered by deducting the amount thereof from
11 the compensation payable to him or otherwise recovered in
12 accordance with section 38, unless such recovery is waived
13 pursuant to such section.

14 “(b) If a partially disabled employee refuses to seek
15 suitable work or refuses or neglects to work after suitable
16 work is offered to, procured by, or secured for him, he shall
17 not be entitled to any compensation.”

18 (b) Section 39 of such Act (5 U. S. C., 1946 edition,
19 sec. 789), is amended by inserting, after “affidavit” the
20 words “or report”.

21 SCHEDULED DISABILITIES

22 SEC. 104. Section 5 of the Federal Employees’ Com-
23 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
24 755), is amended to read as follows:

25 “SEC. 5. (a) In any case of permanent disability which

1 involves solely the loss, or loss of use, of a member or func-
2 tion of the body, or *involves* disfigurement, as provided in
3 the following schedule, basic compensation for such disability
4 shall, in addition to compensation for any temporary total
5 or temporary partial disability, be payable to the disabled
6 employee for the period specified in such schedule at the rate
7 of $66\frac{2}{3}$ per centum of his monthly pay and shall, except as
8 otherwise provided in subsection (b) *and in cases involving*
9 *disfigurement*, be in lieu of compensation for such permanent
10 disability under the preceding sections of this Act:

11 “(1) Arm lost, three hundred and twelve weeks’
12 compensation.

13 “(2) Leg lost, two hundred and eighty-eight
14 weeks’ compensation.

15 “(3) Hand lost, two hundred and forty-four weeks’
16 compensation.

17 “(4) Foot lost, two hundred and five weeks’
18 compensation.

19 “(5) Eye lost, one hundred and sixty weeks’ com-
20 pensation.

21 “(6) Thumb lost, seventy-five weeks’ compensa-
22 tion.

23 “(7) First finger lost, forty-six weeks’ compen-
24 sation.

“(8) Great toe lost, thirty-eight weeks’ compensation.

“(9) Second finger lost, thirty weeks’ compensation.

“(10) Third finger lost, twenty-five weeks’ compensation.

“(11) Toe other than great toe lost, sixteen weeks’ compensation.

“(12) Fourth finger lost, fifteen weeks’ compensation.

“(13) Loss of hearing: (A) Complete loss of hearing of one ear, fifty-two weeks’ compensation; (B) complete loss of hearing of both ears, two hundred weeks’ compensation.

“(14) Binocular vision or percentage of vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for the loss of the eye.

“(15) Phalanges: Compensation for loss of more than one phalanx of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalanx shall be one-half of the compensation for loss of the entire digit.

“(16) Amputated arm or leg: If, in the case of an arm or a leg, the member is amputated above the wrist

1 or ankle, compensation shall be the same as for the
2 loss of the arm or leg, respectively.

3 “(17) Two or more digits: Compensation for loss,
4 or loss of use, of two or more digits, or one or more
5 phalanges of each of two or more digits, of a hand or
6 foot, shall be proportioned to the loss of use of the hand
7 or foot occasioned thereby.

8 “(18) Total loss of use: Compensation for per-
9 manent total loss of use of a member shall be the same
10 as for loss of the member.

11 “(19) Partial loss or partial loss of use: Compensa-
12 tion for permanent partial loss or loss of use of a member
13 may be for proportionate loss or loss of use of the mem-
14 ber. The degree of loss of vision or hearing under this
15 schedule shall be determined without regard to cor-
16 rection.

17 “(20) In any case in which there shall be a loss
18 or loss of use, of more than one member or parts of more
19 than one member as enumerated herein, the award of
20 compensation shall be for the loss, or loss of use, of each
21 such member or part thereof, which awards shall run
22 consecutively, except that where the injury affects only
23 two or more digits of the same hand or foot, subpara-
24 graph (17) of this schedule shall apply, and that where

1 partial bilateral loss of hearing is involved, compensation
2 shall be computed upon the loss as affecting both ears.

3 “(21) Disfigurement: Proper and equitable com-
4 pensation not to exceed \$3,500 shall, in addition to
5 any other compensation payable under this schedule,
6 be awarded for serious disfigurement of the face, head,
7 or neck, if of a character likely to handicap a person
8 in securing or maintaining employment.

9 “(b) Notwithstanding the provisions of subsection (a)
10 of this section and the provisions of sections 3 and 4, if the
11 injury causes the total and permanent loss, or loss of use,
12 of an arm, hand, leg, foot, or eye (including loss of binocular
13 vision), or total and permanent loss of hearing of both
14 ears, whether or not the disability also involves other im-
15 pairments of the body, the individual's basic compensa-
16 tion for such disability, in addition to compensation for
17 periods of temporary total or temporary partial disability,
18 shall be $66\frac{2}{3}$ per centum of his monthly pay for the period
19 specified for such loss, or loss of use, in the schedule to
20 subsection (a) of this section (including paragraphs (16)
21 and (20) thereof), and with respect to any subsequent
22 period shall be as provided in section 3 if the disability is
23 total or as provided in subsection (a) of section 4 if the
24 disability is partial.

25 “(c) The period of compensation payable under the

1 schedule to subsection (a) of this section on account of any
2 injury shall be reduced by the period of compensation paid
3 or payable under such schedule on account of a prior injury
4 if compensation in both cases is for disability of the same
5 member or function, or different parts of the same member
6 or function, or for disfigurement, and the Administrator
7 finds that compensation payable on account of the subse-
8 quent disability in whole or in part would duplicate the
9 compensation payable on account of the preexisting dis-
10 ability. In such cases, for the purposes of disabilities speci-
11 fied in subsection (b), compensation for disability continuing
12 after the scheduled period shall commence upon expiration
13 of such period as reduced under this subsection.

14 “(d) (1) If an individual who has sustained disability
15 compensable under subsection (a) (including any disability
16 compensable under the schedule to subsection (a) by virtue
17 of subsection (b)), and who has filed a valid claim in his
18 lifetime, dies, from causes other than the injury, before the
19 expiration of the compensable period specified in such
20 schedule, the compensation specified in such schedule and
21 unpaid at the individual's death, whether or not accrued or
22 due at his death, shall be paid, under an award made before
23 or after such death, for the period specified in such schedule,
24 to and for the benefit of the persons then in being within

1 the classes and in the proportions and upon the conditions
2 specified in this subsection and in the order named:

3 “(A) to the widow (as defined in section 10 (H))
4 or wholly dependent widower (as specified in section
5 10 (B)), if there is no child (as so defined) under
6 the age of eighteen or incapable of self-support; or

7 “(B) if there are both such a widow or widower
8 and such a child or children, one-half to such widow or
9 widower and the other half to such child or children; or

10 “(C) if there is no such widow or widower but
11 such a child or children, then to such child or children;
12 or

13 “(D) if there is no survivor in the above classes.
14 then to the parent or parents wholly or partly dependent
15 for support upon the decedent, or to other wholly or
16 partly dependent relatives listed in section 10 (F) , or
17 to both, in such proportions as may be provided by
18 regulation; or

19 “(E) if there is no survivor in any of the above
20 classes, and no burial allowance is payable under section
21 11, then such amount, not exceeding the amount which
22 would be expendable under section 11 if such section
23 were applicable, shall be paid to reimburse any person
24 or persons, equitably entitled thereto, to the extent and
25 in the proportions that they shall have paid the ex-

penses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

“(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual’s death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent disability specified in subsection (a) of this section, even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a) .

“(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

“(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would

1 have been payable to him had such entitlement continued
2 shall be payable to the surviving beneficiary or beneficiaries.
3 if any, within the same class or, if there are none, then to
4 the beneficiary or beneficiaries next entitled to priority under
5 such paragraph.”

6 ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM
7 BENEFIT AMOUNT—DEPENDENTS’ BENEFITS, AND SO
8 FORTH

9 SEC. 105. Section 6 of the Federal Employees’ Com-
10 pensation Act, as amended (5 U. S. C., 1946 edition,
11 sec. 756), is further amended to read as follows:

12 “SEC. 6. (a) (1) While the disabled employee has
13 one or more dependents, his basic compensation for dis-
14 ability payable under section 3 or section 5 (a) (including
15 compensation payable under the schedule to section 5 (a)
16 by virtue of section 5 (b) shall be augmented at the rate
17 of $8\frac{1}{3}$ per centum of his monthly pay, and his basic com-
18 pensation for disability payable under section 4 (a) shall be
19 augmented at the rate of $8\frac{1}{3}$ per centum of the difference
20 between his monthly pay and his monthly wage-earning
21 capacity: *Provided, That for any period of temporary total*
22 *disability the augmentation of his basic compensation for dis-*
23 *ability payable under section 3 shall be limited to that part*
24 *of his monthly pay which is not in excess of \$420.*

1 “(2) A used in this subsection, the term ‘dependent’
2 shall mean any of the following:

3 “(A) A wife, if (i) she is a member of the same
4 household as the employee or is receiving regular con-
5 tributions from him toward her support, or (ii) he has
6 been ordered by any court to contribute to her support.

7 “(B) A husband, if wholly dependent by reason of
8 his own physical or mental disability upon the employee
9 for support.

10 “(C) An unmarried child (as defined in section
11 10 (H)), while such child (i) is under eighteen years
12 of age or, if over eighteen, is incapable of self-support
13 by reason of mental or physical disability, and (ii) is
14 living with the employee or receiving regular contribu-
15 tions toward his support from the employee.

16 “(D) A parent (as defined in section 10 (H)),
17 while wholly dependent upon and supported by the
18 employee.

19 “(b) (1) In addition to the monthly compensation
20 otherwise specified in this Act, the Administrator may pay
21 an injured employee, who has been awarded compensation,
22 an additional sum of not more than \$75 a month, as the
23 Administrator may deem necessary, when the Administrator
24 shall find that the service of an attendant is necessary con-

stantly to be used by reason of the employee's being totally blind, or having lost both hands or both feet or the use thereof, or being paralyzed and unable to walk, or by reason of other disability resulting from the injury actually rendering him so helpless as to require constant attendance.

“(2) The Administrator may pay to any disabled individual who is undergoing vocational rehabilitation pursuant to the Administrator's direction under section 9 (b) additional compensation necessary for his maintenance, but not to exceed \$50 per month.

“(c) Except as otherwise authorized under section 42, the monthly rate of compensation for ~~total~~ disability, including any augmented compensation payable by reason of subsection (a) but not including any sum payable by reason of subsection (b), shall not be *more than \$525 per month and in cases of total disability shall not be less than \$112.50* per month, unless the employee's monthly pay is less in which case his monthly rate of compensation *for total disability* shall be equal to his full monthly pay.

“(d) (1) In the case of any person who at the time of the injury was a minor or employed in a learner's capacity and who, prior to the injury, was not physically or mentally handicapped, the Administrator shall, on any review under section 37 after the time when the wage-earning capacity of such person would probably, but for the injury, have in-

1 creased, prospectively recompute the monetary compensation
2 payable for disability on the basis of an assumed monthly
3 pay corresponding to such probable increased wage-earning
4 capacity. The Administrator may, on any review under
5 section 37 after a disabled employee has attained the age
6 of seventy years and the wage-earning capacity of the dis-
7 abled employee would probably, aside from and inde-
8 pendently of the effects of the injury, have decreased on
9 account of old age, prospectively recompute the monetary
10 compensation payable for disability on the basis of an as-
11 sumed monthly pay corresponding to such probable decreased
12 wage-earning capacity.

13 “(2) If a disabled individual, without good cause, fails
14 to apply for and undergo vocational rehabilitation when so
15 directed pursuant to section 9 (b), and the Administrator,
16 upon review under section 37, finds that in the absence of
17 such failure the individual’s wage-earning capacity would
18 probably have substantially increased, the Administrator may
19 prospectively reduce the individual’s monetary compensation
20 in accordance with what would probably have been his
21 wage-earning capacity in the absence of such failure, until
22 the individual in good faith complies with the Administra-
23 tor’s direction.”

24 INCREASE IN DEATH BENEFITS, AND SO FORTH

25 SEC. 106. (a) Section 10 of the Federal Employees’

1 Compensation Act, as amended (5 U. S. C., 1946 edition,
2 sec. 760), is further amended by striking out “ $66\frac{2}{3}$ ” wher-
3 ever it occurs and inserting in lieu thereof “75”; by striking
4 out “35” in clauses (A) and (B) and inserting in lieu
5 thereof “45”; by striking out in clause (C) the words
6 “the compensation payable under clause (A) or clause
7 (B)” and inserting in lieu thereof “40 per centum”; by
8 striking out “10” in clauses (C) and (D) and inserting
9 in lieu thereof “15”; and by striking out “25” in clause
10 (D) and inserting in lieu thereof “35”.

11 (b) Clause (K) of such section, as amended, is further
12 amended to read as follows:

13 “(K) In computing compensation under this sec-
14 tion the monthly pay shall be considered not to be less
15 than \$150, but the total monthly compensation shall
16 not exceed the monthly pay computed as provided in
17 section 12 *or the sum of \$525.*”

18 (c) Clause (B) of such section, as so amended, is
19 further amended to read as follows:

20 “(B) To the widower, if there is no child, 45
21 per centum if wholly dependent for support, by reason
22 of his physical or mental disability, upon the deceased
23 employee at the time of her death. This compensation
24 shall be paid until his death or marriage or until he
25 becomes capable of self-support.”

(d) Such section, as so amended, is further amended by striking out the second sentence of clause (C), the last sentence of clause (D), and the last sentence of clause (G).

(e) Clause (L) of such section, as so amended, is amended to read as follows:

“(L) If any person entitled to compensation under this section or section 5 or 6, whose compensation by the terms of this or of such other section ceases or is to be reduced upon his marriage or upon the marriage of his dependent, accepts after such marriage any payments or compensation to which he is not entitled, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.”

LIBERALIZATION OF BURIAL PAYMENTS

SEC. 107. Section 11 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 761), is further amended to read as follows:

“SEC. 11. If death results from the injury the United States shall pay, to the personal representative of the deceased employee or otherwise, funeral and burial expenses not to exceed \$400, in the discretion of the Administrator. In the case of an employee whose home is within the United States, if his death results from the injury while he is away

1 from his home or official station or is outside of the United
2 States, or if his death results from other causes while he is
3 away from his home or official station for the purpose of
4 receiving medical or other services, appliances, or supplies
5 under section 9 or examination under section 21, and if so
6 desired by his relatives, the body shall, in the discretion of
7 the Administrator, be embalmed and transported in a
8 hermetically sealed casket to the home or last place of resi-
9 dence of the employee at the expense of the employees'
10 compensation fund. If, in such cases, request for return of
11 the body is not made by the decedent's relatives, the Admin-
12 istrator may provide for the disposition of the remains and
13 incur, and cause payment from the employees' compensation
14 fund of, such necessary transportation, funeral, and burial
15 expenses as under the circumstances shall be reasonable."

16 EXTENSION OF COVERAGE, AND SO FORTH

17 SEC. 108. (a) Section 40 of the Federal Employees'
18 Compensation Act, as amended (5 U. S. C., 1946 edition,
19 sec. 790), is further amended, by designating the para-
20 graphs thereof, following the introductory phrase, as para-
21 graphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)",
22 and "(h)", respectively.

23 (b) Paragraph (b) of such section, as so designated,
24 defining the term "employee", is further amended to read
25 as follows:

1 “(b) The term ‘employee’ includes (1) all civil offi-
2 cers and employees of all branches of the Government of
3 the United States (including officers and employees of in-
4 strumentalities of the United States wholly owned by the
5 United States ~~but not including Members of Congress~~) ; (2)
6 commissioned officers of the Regular Corps of the Public
7 Health Service; (3) officers in the Reserve of the Public
8 Health Service on active duty; (4) persons rendering per-
9 sonal services of a kind similar to those of civilian officers
10 or employees of the United States to any department,
11 independent establishment, or agency thereof (including in-
12 strumentalities of the United States wholly owned by it),
13 without compensation or for nominal compensation, in any
14 case in which acceptance or use of such services is author-
15 ized by an Act of Congress or in which provision is made
16 by law for payment of the travel or other expenses of
17 such person; and (5) persons, other than independent con-
18 tractors and their employees, employed on the Menominee
19 Indian Reservation in the State of Wisconsin, subsequent
20 to September 7, 1916, in operations conducted pursuant
21 to the Act entitled ‘An Act to authorize the cutting of
22 timber, the manufacture and sale of lumber, and the preser-
23 vation of the forests on the Menominee Indian Reservation
24 in the State of Wisconsin’, approved March 28, 1908, as

1 amended, or any other Act relating to tribal timber and
2 logging operations on the Menominee Reservation.”

3 (c) Paragraph (c) of such section, as so designated
4 defining the term “commission”, is further amended by
5 inserting “former” after the words “to the” and by striking
6 out the words “provided for in section 28”.

7 (d) Paragraph (f) of such section, as so designated,
8 defining the term “monthly pay”, is further amended by
9 inserting, immediately before the period, the following:
10 “except when otherwise determined under section 6 (d)
11 with respect to any period”.

12 (e) Such section is further amended by adding thereto
13 a new paragraph “(i)” reading as follows:

14 “(i) The term ‘Administrator’ means the Federal
15 Security Administrator.”

16 INCREASE OF COMPUTATION BASE WHERE INJURY
17 OCCURRED BEFORE JULY 1, 1946

18 SEC. 109. Notwithstanding any other provision of this
19 Act or of the Federal Employees’ Compensation Act, the
20 monthly pay upon the basis of which compensation for dis-
21 ability or death is computed under the Federal Employees’
22 Compensation Act, as amended, shall, effective on the
23 first day of the first calendar month following enactment of
24 this Act, be increased by 40 per centum if the injury (or in-
25 jury causing death) occurred *before May 1, 1943, in the cases*

1 *of persons employed in the postal service whose compensation*
 2 *was affected by the Act of April 9, 1943 (57 Stat. 59), or*
 3 *before January 1, 1941, in all other cases, or by 10 per*
 4 *centum if the injury (or injury causing death) occurred on or*
 5 *after such date but before July 1, 1946, except that such in-*
 6 *crease shall in neither no event exceed \$50. This sec-*
 7 *tion shall apply to any case of death caused by such an*
 8 *injury, regardless of whether such death occurs or occurred*
 9 *before or after the enactment of this Act.*

10 TITLE II—TECHNICAL AMENDMENTS

11 EXCLUSIVENESS OF REMEDY

12 SEC. 201. Section 7 of the Federal Employees' Com-
 13 pensation Act, as amended (5 U. S. C., 1946 edition, sec.
 14 757), is further amended by inserting the designation "(a)"
 15 immediately before the first sentence thereof and by adding
 16 to such section a new subsection reading as follows:

17 ~~"(b)~~ The remedy afforded to any person under this Act
 18 with respect to his own injury or the death of another indi-
 19 vidual shall be the exclusive remedy against, and be in
 20 place of any other legal liability of the United States or
 21 any of its instrumentalities on account of such injury or
 22 death, where such liability is determinable by direct judicial
 23 proceedings in a civil action or in admiralty, or by pro-
 24 ceedings, whether administrative or judicial, under any other

1 workmen's compensation law or under any Federal tort
2 liability statute."

3 (b) The liability of the United States or any of its
4 instrumentalities under this Act or any extension thereof
5 with respect to the injury or death of an employee shall be
6 exclusive, and in place, of all other liability of the United
7 States or such instrumentality to the employee, his legal
8 representative, spouse, dependents, next of kin, and anyone
9 otherwise entitled to recover damages from the United States
10 or such instrumentality, on account of such injury or death,
11 in any direct judicial proceedings in a civil action or in
12 admiralty, or by proceedings, whether administrative or
13 judicial, under any other workmen's compensation law or
14 under any Federal tort liability statute.

15 SEC. 202. (a) Section 9 of the Federal Employees'
16 Compensation Act, as amended (5 U. S. C., 1946 edition,
17 sec. 759), is amended by inserting before the first sentence
18 thereof the designation "(a)" and by adding at the end
19 of such section a new subsection reading as follows:

20 "(b) The Administrator may direct any permanently
21 disabled individual whose disability is compensable under
22 this Act to undergo vocational rehabilitation and shall make
23 provision for furnishing vocational rehabilitation services in
24 such cases. In providing for such services, the Administra-
25 tor shall, insofar as practicable, utilize the services or facilities

1 of State agencies (or corresponding agencies in Territories
2 or possessions) cooperating with him in carrying out the
3 purposes of the Vocational Rehabilitation Act, as amended,
4 except to the extent that the Administrator provides for
5 furnishing such services under subsection (a) of this section.
6 The cost of providing such services to individuals under-
7 going vocational rehabilitation pursuant to such direction
8 shall be paid from the employees' compensation fund, ex-
9 cept that in reimbursing any State agency (or correspond-
10 ing agency of a Territory or possession) under any arrange-
11 ment pursuant to this subsection there shall be excluded
12 any cost to such agency reimbursable in full under section 3
13 (a) (4) of the Vocational Rehabilitation Act, as amended."

14 (b) *Section 9 of the Federal Employees' Compensation*
15 *Act, as so amended, is further amended by inserting immedi-*
16 *ately before the last sentence of subsection (a) of such section*
17 *the following: "The Administrator may, under such limita-*
18 *tions or conditions as he shall deem necessary, authorize em-*
19 *ploying establishments of the United States to provide for*
20 *the initial furnishing of medical and other benefits under*
21 *this section, and the Administrator may certify for payment*
22 *out of the Employees' Compensation Fund vouchers for ex-*
23 *penses thus incurred for such benefits, upon certification by*
24 *the person required by section 24 to make reports of injury*
25 *that the expense was incurred in respect to injury which was*

1 *accepted by the employing establishment as probably com-*
2 *pensable under this Act. The form and content of such*
3 *certification shall be prescribed by the Administrator."*

4 COMPUTATION OF PAY

5 SEC. 203. Section 12 of the Federal Employees' Com-
6 pensation Act (5 U. S. C., 1946 edition, sec. 762) is
7 amended to read as follows:

8 "SEC. 12. (a) In computing monetary compensation
9 for disability or death upon the basis of monthly pay, such
10 pay shall be determined in accordance with the provisions
11 of this section.

12 "(b) The value of subsistence and quarters, and of any
13 other form of remuneration in kind for services if its value
14 can be estimated in money, shall be included as part of the
15 pay. Overtime pay, or additional pay or allowance author-
16 ized outside the United States because of differential in cost
17 of living or other special circumstance, or bonus or premium
18 pay for extraordinary service (including amounts paid as
19 bonus for particularly hazardous service in time of war)
20 shall not be taken into account. The term 'overtime pay',
21 as used in this subsection, means pay for hours of service in
22 excess of those of a statutory or other basic workweek, or
23 other basic unit of work time, as observed by the establish-
24 ment in which the employee is employed.

25 "(c) (1) The monthly pay at the time of injury shall

1 be deemed to be one-twelfth of the employee's average an-
2 nual earnings at that time, except that when compensation
3 is paid upon a weekly basis, the weekly equivalent of such
4 monthly pay shall be deemed to be one-fifty-second of such
5 average annual earnings: *Provided*. That, for so much of the
6 period of total disability as does not exceed ninety calendar
7 days from the date of the beginning of compensable disability,
8 the compensation may, in the discretion of the Administrator,
9 be computed on the basis of the employee's actual daily wage
10 at the time of injury and in that event he may be paid com-
11 pensation for such days as he would have worked but for the
12 injury.

13 “(2) Average annual earnings shall be determined as
14 follows:

15 “(A) If the employee worked in the employment
16 in which he was working at the time of his injury
17 during substantially the whole of the year immediately
18 preceding such injury, his average annual earnings
19 shall consist of the product obtained by multiplying
20 his daily wage for the particular employment, or the
21 average thereof if the daily wage has fluctuated, by
22 three hundred if he was employed on the basis of a
23 six-day workweek, two hundred and eighty if employed
24 on the basis of a five-and-one-half-day week, and two
25 hundred and sixty if employed on the basis of a five-

1 day week, except that if the employment was in a
2 position for which an annual rate of compensation was
3 fixed, such average annual earnings shall consist of such
4 annual rate of compensation.

5 “(B) If the injured employee did not work in
6 such employment during substantially the whole of
7 such year, but the position was such as would have
8 afforded employment for substantially a whole year,
9 then the average annual earnings of such employee
10 shall be equal to the average annual earnings of an
11 employee of the same class working substantially the
12 whole of such immediately preceding year in the same
13 or similar employment by the United States in the same
14 or neighboring place, as determined in accordance with
15 clause (A).

16 “(C) If either of the foregoing methods of deter-
17 mining the average annual earnings of an injured em-
18 ployee cannot reasonably and fairly be applied, such
19 average annual earnings shall be such sum as, having
20 regard to the previous earnings of the injured employee
21 in Federal employment, and of other employees of the
22 United States in the same or most similar class working
23 in the same or most similar employment in the same or
24 neighboring locality, or to other previous employment
25 of such employee, or to any other relevant factors, shall

1 reasonably represent the annual earning capacity of the
2 injured employee in the employment in which he was
3 working at the time of the injury: *Provided*, That his
4 average annual earnings shall consist of not less than
5 one hundred and fifty times the average daily wage
6 which he shall have earned in such employment during
7 the days when so employed within the period of one
8 year immediately preceding his injury.

9 “(D) Such rules shall, so far as practicable, be
10 also applied in the case of an employee serving without
11 pay or at nominal pay: *Provided*, That (i) the average
12 annual earnings of such employee shall in no event
13 exceed the basic rate of annual compensation specified
14 under the Classification Act of 1923, as amended, for
15 positions in grade CAF-15 or P-8 at the bottom of
16 such grade, and (ii) if his average annual earnings
17 cannot reasonably and fairly be determined in the
18 manner otherwise provided in this section, such aver-
19 age annual earnings shall be determined at the reason-
20 able value of the service rendered but not in excess
21 of \$3,600 per annum.

22 “(d) As used in this section the term ‘year’ means a
23 period of twelve calendar months, or the equivalent thereof
24 as specified in regulations issued by the Administrator.”

COMPUTATION OF WAGE-EARNING CAPACITY

SEC. 204. Section 13 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 763), is amended to read as follows:

"SEC. 13. (a) In the determination of an employee's wage-earning capacity after the beginning of partial disability, the rules specified in section 12 (b) shall apply.

"(b) The wage-earning capacity of an injured employee, in determining compensation for partial disability other than permanent partial disability compensable under section 5, shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however,* That if the employee has no actual earnings, or his actual earnings do not fairly and reasonably represent his wage-earning capacity, such wage-earning capacity as shall appear reasonable under the circumstances of the case shall be determined, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition."

ADMINISTRATOR SUBSTITUTED FOR COMMISSION

SEC. 205. (a) Section 28 of the Federal Employees' Compensation Act, as amended, is amended to read as follows:

1 “SEC. 28. This Act shall be administered by the
2 Administrator. The Administrator is authorized to delegate
3 to any officer or employee of the Federal Security Agency
4 any of the powers conferred upon him by this Act.”

(b) The first and third sentences of section 28a of such Act are repealed, but such repeal shall not be construed to revive any independent bureau or other agency abolished by such section.

9 (c) (1) The word “commission” (or other designation
10 of the commission), and the word “it” or “its” whenever
11 they refer to the commission, in any part of such Act, are
12 struck out wherever necessary in order to give effect to
13 subsection (a) of this section, and the words “Adminis-
14 trator” and “he” or “his”, respectively, are inserted in lieu
15 thereof.

(2) In addition, the phrase “, or any commissioner by authority of the commission,” in section 29 of such Act is struck out.

OVERPAYMENTS

SEC. 206. Section 38 of the Federal Employees' Com-
pensation Act (5 U. S. C., 1946 edition, sec. 788), is
amended to read as follows:

23 “SEC. 38. (a) Subject to the provisions of sections 36
24 and 37, whenever by reason of an error of fact or law an
25 overpayment has been made to an individual under this

1 Act, proper adjustments shall be made, under regulations
2 prescribed by the Administrator, by decreasing subsequent
3 payments to which such individual is entitled. If such
4 individual dies before such adjustment has been completed,
5 adjustment shall be made by decreasing subsequent benefits,
6 if any, payable under this Act with respect to such individ-
7 ual's death.

8 “(b) There shall be no adjustment or recovery by the
9 United States in any case where incorrect payment has been
10 made to an individual who is without fault and where ad-
11 justment or recovery would defeat the purpose of this Act
12 or would be against equity and good conscience.

13 “(c) No certifying or disbursing officer shall be held
14 liable for any amount certified or paid by him to any person
15 where the adjustment or recovery of such amount is waived
16 under subsection (b), or where adjustment under subsection
17 (a) is not completed prior to the death of all persons
18 against whose benefits deductions are authorized.”

19 SHORT TITLE

20 SEC. 207. The Federal Employees' Compensation Act,
21 as amended, is further amended by adding thereto at the
22 end thereof a new section as follows:

23 “SEC. 43. This Act may be cited as the ‘Federal Em-
24 ployees' Compensation Act’.”

FEES

SEC. 208. Section 23 of such Act, as amended, is further amended to read as follows:

“SEC. 23. (a) Fees or examinations made on the part of the United States under sections 21 and 22 by physicians who are not officers or employees of the United States and not under contract to the United States to render medical services to its employees shall be fixed by the Administrator. Such fees, and any sum payable to the employee under section 21, which authorized or approved by the Administrator, shall be paid from the Employees' Compensation Fund.

“(b) A claimant may be represented before the Administrator in any proceeding under this Act by any person duly authorized by such claimant. No claim for legal services or for any other services rendered in respect of a case, claim, or award for compensation under this Act, to or on account of any person, shall be valid unless approved by the Administrator. Any person who receives any fee or other consideration, or any gratuity on account of services so rendered, unless such fee, consideration, or gratuity, is so approved, or who solicits employment for himself or another in respect of any case, claim, or award for compensation under (or to be brought under) this Act shall be guilty of a mis-

1 demeanor and upon conviction thereof shall, for each offense,
2 be punished by a fine of not more than \$1,000 or by im-
3 prisonment not to exceed one year, or by both such fine and
4 imprisonment.

5 “(c) If any person in proceedings before the Adminis-
6 trator or his duly authorized representative disobeys or
7 resists any lawful order or process, or misbehaves during a
8 hearing or so near the place thereof as to obstruct the same,
9 the Administrator or his duly authorized representative shall
10 certify the facts to the district court having jurisdiction in the
11 place in which he is sitting (or to the district court of the
12 United States for the District of Columbia if he is sitting in
13 such district) which shall thereupon in a summary manner
14 hear the evidence as to the acts complained of, and, if the
15 evidence so warrants, punish such person in the same
16 manner and to the same extent as for a contempt committed
17 before the court, or commit such person upon the same
18 conditions as if the doing of the forbidden act had occurred
19 with reference to the process of or in the presence of the
20 court.”

21 *ACCIDENT PREVENTION AND ANNUAL REPORTS*

22 *SEC. 209. Section 33 of the Federal Employees' Com-*
23 *pensation Act, as amended, is further amended by designat-*

1 *ing the first two paragraphs thereof, respectively, subsections*
2 *“(a)” and “(b)” and by adding a new subsection designated*
3 *as “(c)”, as follows:*

4 *“(c) In order to reduce the number of accidents and*
5 *injuries among Government officers and employees, encour-*
6 *age safe practices, eliminate work hazards and health risks,*
7 *and reduce compensable injuries, the heads of the various*
8 *departments and agencies are authorized and directed to*
9 *develop, support, and foster organized safety promotion, and*
10 *the President may also establish by Executive order a safety*
11 *council composed of representatives of Government depart-*
12 *ments and agencies to serve as an advisory body to the*
13 *Administrator in furtherance of the safety program carried*
14 *out by the Administrator pursuant to this section, and the*
15 *President may undertake such other measures as he may*
16 *deem proper to prevent injuries and accidents to persons*
17 *covered by this Act. Departments and other agencies of the*
18 *United States shall keep such records of injuries and acci-*
19 *dents to persons covered by this Act, whether or not resulting*
20 *in loss of time or the payment or furnishing of benefits, and*
21 *make such statistical or other reports and upon such forms*
22 *as the Administrator may by regulation prescribe.”*

1 TITLE III—TRANSITIONAL PROVISIONS AND
2 EFFECTIVE DATE

3 EXTENSION OF TIME LIMITATIONS

4 SEC. 301. (a) Where an individual with respect to
5 whose disability or death compensation is claimed under
6 the Federal Employees' Compensation Act, as amended,
7 was injured or died outside the United States on or after
8 December 7, 1941, and before August 11, 1946, the time
9 limitations of such Act with respect to the giving of notice
10 of injury and the filing of a claim for compensation shall
11 not begin to run until the date of enactment of this Act.

12 (b) As used in this subsection, the term "United
13 States" includes only the States, Alaska, Hawaii, Puerto
14 Rico, the Virgin Islands, and the Canal Zone.

15 COMPROMISE SETTLEMENTS—PRIVATE ACTS

16 SEC. 302. The provisions of this Act shall not be con-
17 strued to authorize the payment of any compensation under
18 the Federal Employees' Compensation Act in any case
19 where, pursuant to private relief legislation, a beneficiary
20 of such legislation has accepted payment of a grant in
21 satisfaction of the liability of the United States (or its cor-
22 poration, agency, or other instrumentality) in such case, or
23 where such liability has been compromised and settled, or
24 other satisfaction received, as the result of any action sound-
25 ing in tort or under maritime law, or where a lump sum

1 has been received under section 14 of the Federal Employ-
2 ees' Compensation Act and the lump-sum award is not
3 modified or set aside for other reasons.

4 EFFECTIVE OPERATION

5 SEC. 303. (a) Except as otherwise provided by this
6 section or in this Act, titles I and II of this Act shall take
7 effect on the date of enactment of this Act and be applicable
8 to any injury or death occurring before or after such date.

9 (b) The amendments made by section 101 of this Act
10 to sections 2 and 8 of the Federal Employees' Compensation
11 Act shall not apply to any period of disability commencing
12 before the enactment of this Act.

13 (c) The amendments made by sections 102, 103, 105,
14 and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of
15 the Federal Employees' Compensation Act shall be applica-
16 ble to cases of injury or death occurring before enactment
17 of this Act only with respect to any period beginning on or
18 after the first day of the first calendar month following the
19 enactment of this Act.

20 (d) (1) The amendments made by section 104 of this
21 Act to section 5 of the Federal Employees' Compensation
22 Act, establishing special provisions for permanent disability
23 involving the loss, or loss of use, of a member or function
24 of the body, shall (A) in cases within the purview
25 of section 5 (b) or in cases of disfigurement apply

1 retroactively to any case where the injury occurred
2 on or after January 1, 1940, and (B) in other
3 cases, apply retroactively to injuries which occurred
4 within one year prior to the enactment of this Act: *Provided*,
5 That where the injury occurred before such enactment,
6 except in cases specified in subsection (b) of section 5 of
7 such Act, as so amended, the injured employee shall not be
8 entitled to compensation under the schedule unless within
9 one year after such date of enactment he elects to receive
10 compensation under the schedule if so entitled: *Provided*
11 *further*, That in the event of such election, all amounts
12 theretofore paid on the basis of loss of wage-earning capacity
13 as compensation for permanent disability involving a loss,
14 or loss of use, of a member or function, or disfigurement, as
15 specified in the schedule shall be credited against any com-
16 pensation awarded by reason of such amendment: *And*
17 *provided further*, That any award made under the provisions
18 of this subsection shall be payable prospectively in the same
19 manner as though the injury occurred after the enactment
20 of this Act.

21 (2) No payment upon death pursuant to section 5 (d)
22 of the Federal Employees' Compensation Act, as amended
23 by this Act, shall be made unless death occurs after such
24 enactment. In the event of such death, the election required

1 by paragraph (1) of this subsection shall be deemed to have
2 been made.

3 (e) Section 107 of this Act, amending section 11 of the
4 Federal Employees' Compensation Act, shall apply only to
5 deaths occurring after the enactment of this Act.

6 (f) (1) The amendments made by section 108 of this
7 Act to the definition of the term "employee" contained in
8 section 40 of the Federal Employees' Compensation Act
9 shall, as to any case of injury or death occurring before the
10 date of enactment of this Act, apply only to injuries or deaths
11 occurring on or after December 7, 1941, and compensation
12 (including medical or other benefits) in any such case shall
13 not be paid for any period earlier than the first day of the
14 first month following enactment of this Act and, in cases of
15 disability caused by such an injury, shall be limited to com-
16 pensation for permanent partial or permanent total dis-
17 ability.

18 (2) The time limitations of the Federal Employees'
19 Compensation Act with respect to the giving of notice of in-
20 jury and the filing of a claim for compensation, in any case
21 brought within the purview of section 40 of such Act by this
22 Act, shall not begin to run until the date of enactment of
23 this Act.

24 (g) The amendment made by section 201 of this Act to

1 section 7 of the Federal Employees' Compensation Act,
2 making the remedy and liability under such Act exclusive,
3 shall not apply to any case of injury or death occurring prior
4 to the enactment of this Act in which liability other than
5 that arising under such Act, or any extension thereof, was
6 finally determined prior to the enactment of this Act.

7 (h) The amendments made by sections 203 and 204
8 of this Act to sections 12 and 13 of the Federal Employees'
9 Compensation Act, pertaining to the determination of the
10 employee's pay or his wage-earning capacity, may, in the
11 interest of justice and in the discretion of the Administrator,
12 be applied in any case, irrespective of the date of injury
13 or death, so as to cause payments of compensation, with
14 respect to any period not earlier than the first day of the
15 first month after enactment of this Act, to be consistent with
16 such amendments.

17 TIME LIMITATIONS NOT EXTENDED

18 SEC. 304. Except as otherwise expressly provided, the
19 enactment of this Act shall not suspend or defer the running
20 of the time limitations of the Federal Employees' Compensa-
21 tion Act with respect to the giving of notice of injury and
22 filing of a claim for compensation.

23 ACCIDENT PREVENTION AND ANNUAL REPORTS

24 SEC. 305. Section 23 of the Federal Employee's Com-
25 pensation Act, as amended, is further amended by design-

nating the first two paragraphs thereof, respectively, subsections “(a)” and “(b)” and by adding a new subsection designated as “(c)”, as follows:

“(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this Act.”

TITLE IV

LIBERALIZATION OF MINIMUM AND MAXIMUM COMPENSATION FOR EMERGENCY RELIEF WORKERS

SEC. 401. (a) Clauses (a), (b), and (c) of the second proviso to section 1 of the Act approved February 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended to read as follows:

“(a) that the aggregate monetary compensation

1 in any individual case, except compensation for death
2 or for permanent total disability, shall not exceed the
3 sum of \$4,000 and that the monthly monetary com-
4 pensation shall not in any event exceed \$100, both
5 exclusive of medical costs;

6 “(b) that, in lieu of the minimum limit on monthly
7 compensation for disability established by section 6 and
8 the minimum limit on the monthly pay on which death
9 compensation is to be computed as provided by section
10 10 (K) of such Act, the monthly pay on the basis of
11 which compensation for disability or death is computed
12 shall be deemed to be not less than \$75 and compensa-
13 tion shall be payable on the basis of such pay regardless
14 of the actual pay at the time of injury or death, except
15 that the Federal Security Administrator may from time
16 to time, by regulation, fix a lower minimum monthly
17 pay as a basis for computing such compensation as to
18 any class of individuals, specified in the fourth paragraph
19 of section 42 of such Act, as amended, who sustained in-
20 jury or were killed outside the continental United States;

21 “(c) that the Federal Security Administrator may
22 from time to time, subject to the above limitations, estab-
23 lish a special schedule of compensation for disability
24 and for death (including a special schedule of compensa-
25 tion for the loss, or loss of use, of members or functions

of the body), and compensation under such schedule shall be in lieu of all other compensation in such cases;”.

(b) The first proviso to section 8 of the Emergency Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352, 356), and the first proviso to section 16 of the Emergency Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809, 814), are repealed.

(c) This section shall apply to any case heretofore or hereafter coming within the purview of such Act of February 15, 1934, but no compensation shall, with respect to any case of injury or death occurring before the date of enactment of this Act, accrue or be increased by reason of the enactment of this section for any period prior to the first day of the first month following the date of enactment of this Act.

(d) The special schedule of compensation heretofore established pursuant to clause (a) of the second proviso to section 1 of such Act of February 15, 1934, shall remain in effect until superseded by a new schedule established pursuant to the amendments made by this section.

MEMBERS OF WOMEN’S ARMY AUXILIARY CORPS

SEC. 402. Effective as of July 25, 1947, paragraph a of section 2 of the Act approved July 25, 1947 (ch. 327, 61 Stat. 449, 451), is amended by striking out the semicolon at the end of the provision repealing the Act of July

1 1, 1943 (57 Stat. 371), and the Act of May 14, 1942
2 (56 Stat. 278), as amended, and inserting in lieu thereof
3 a colon and the following proviso: "*Provided*, That section
4 11 of such Act of May 14, 1942, shall remain in effect to the
5 extent specified in section 5 of such Act of July 1, 1943;".

Passed the House of Representatives June 30, 1949.

Attest:

RALPH R. ROBERTS,

Clerk.

AN ACT

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

JUNE 1 (legislative day, JUNE 2), 1949

Read twice and referred to the Committee on Labor
and Public Welfare

AUGUST 4 (legislative day, JUNE 2), 1949

Reported with amendments

Mr. MURRAY. Yes; the bill provides for the repair of the drainage system which was established in connection with an irrigation program. It seemed that seepage from the irrigation project was affecting the city of Polson, and it was necessary for the Bureau to establish the drainage system, which has gotten out of repair. The bill provides for its repair. The city of Polson agrees to establish a sanitary district, and will take over the project from that time on, and will assume all responsibility for future upkeep.

Mr. HENDRICKSON. Is not that a departure from previous policy?

Mr. MURRAY. No; it is not. The obligation would be on the Bureau of Reclamation to protect the town from the effects of the irrigation project. The city now agrees to take it over and support it, if this bill is enacted.

Mr. HENDRICKSON. Was the bill unanimously reported?

Mr. MURRAY. The bill was unanimously reported from the committee.

Mr. HENDRICKSON. I withhold any objection.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill (H. R. 2869) to authorize an appropriation in aid of a system of drainage and sanitation for the city of Polson, Mont., was considered, ordered to a third reading, read the third time, and passed.

AMENDMENT OF CERTAIN PROVISIONS OF THE INTERNAL REVENUE CODE

The bill (H. R. 5268) to amend certain provisions of the Internal Revenue Code, was announced as next in order.

Mr. TOBEY. Over.

Mr. JOHNSON of Colorado. Mr. President, will the Senator withhold his objection for a moment?

Mr. TOBEY. I am glad to do so.

Mr. JOHNSON of Colorado. The Senator from Georgia [Mr. GEORGE] was called from the Chamber. He asked me to look after the bill if he did not return. I hope the Senator will allow this bill to be passed. It is a bill which affects the administrative procedures with respect to the Internal Revenue Code. It is an important piece of legislation. It was considered by the Ways and Means Committee, and was reported from the Finance Committee with the unanimous approval of that committee. We added some amendments.

The first part of the bill is just as it came from the House Ways and Means Committee and from the House itself. We added some amendments to the bill in the Senate committee, but the amendments are not particularly important. They are not nearly so important as the procedural policies laid down in the bill.

Mr. TOBEY. Mr. President, with reference to my request that this bill go over, I had not seen the bill before today. It is a very comprehensive piece of legislation. It affects the Internal Revenue Code very materially through proposed amendments. It especially affects deductions of charitable contributions by corporations and certain trusts.

That is a matter very close to my heart. Last year I carried on an investigation for 2 or 3 months into so-called chari-

table trusts. Extensive hearings were held, and the interest in that subject was so great that 5,000 people have written in requesting copies of the hearings and the proposed legislation to correct these evils—if they are evils—whereby unconscionable people can go into some private business and be exempt from Federal taxes while you and I and 140,000,000 other Americans are soaked by the Bureau of Internal Revenue.

We devised legislation and submitted it to the great Committee on Finance. It has had little or no consideration. The answer given me by the distinguished chairman was that legislation such as that must originate in the House of Representatives. Now I find legislation today coming from the committee affecting trustees and charitable contributions.

I want this bill to go over so that I may have an opportunity to study it, and perhaps offer certain amendments to correct injustices when the bill comes before us. I want time to study the bill.

The need of my legislation is far-reaching. Let me cite an illustration. In Texas the great Greyhound Bus Co. recently built a large terminal which cost within \$25,000 of \$1,000,000. Soon after the construction was completed it was sold to the Baptist denomination of Texas. Shortly thereafter it was leased back by the Baptists to the Greyhound Bus Co. The result was that the entire income from the property was exempt from taxation because it belonged to Baptists. I happen to be a Baptist, yet I cry out against that procedure. There are many such evasions of Federal taxes which should be brought to the light.

In New York great institutions carrying on the pickle business of the leather business obtain exemptions from Federal taxes by such trusts and I understand that the total amount of exemptions similarly obtained is nearly \$1,000,000,000. I say that instead of soaking the public with more taxes we should pick the berries off the bush within the reach of honest taxes. Many persons are getting away with exemptions while you and I have to pay. I want to study this subject. If I can do so, I intend to offer certain amendments in the interest of pro bono publico.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. TOBEY. I yield.

Mr. MORSE. Does the Senator from New Hampshire agree that this whole trend of trying to evade taxes by so-called charitable trust arrangements is creating a very low ebb of morality in this country?

Mr. TOBEY. It certainly is. Let me tell the Senate something about some of these trusts. In New England clever lawyers were hired to draft the indentures under which the trusts operated. No one knew anything about the operations. No audit of the funds of the trust or of the income was required. There was no accounting to the beneficiaries. Such operations could continue for 30 or 40 years. Under such an arrangement Bill Jones or John Smith, trustees, could sell all the assets

of the trust to himself. If I were the distinguished trustee of such a trust, as trustee I could sell part of the trust holdings to Charles Tobey, individual; and as an individual I could sell the property to some third party and make two or three million dollars overnight. It is a phony situation. We ought to look into it. It is rotten to the core.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. TOBEY. I yield.

Mr. TAFT. I am not disagreeing with the Senator. I think the Senator will find, when he looks into the bill, that it has nothing to do with that particular question. I think after the Senator examines the bill he will have no objection on the ground which he has stated.

Mr. TOBEY. I am sure that the astute Senator from Ohio realizes that it is very difficult to get tax legislation through which is manifestly pro bono publico. So when a bill like this comes along, there may be a chance to graft something on to the parent stock. That is what I want to do. Over.

The PRESIDING OFFICER. The bill is passed over.

GRANTS AND SCHOLARSHIPS FOR EDUCATION IN MEDICAL, DENTAL, AND OTHER PROFESSIONS—BILL PASSED OVER

The bill (S. 1453) to amend the Public Health Service Act to provide grants and scholarships for education in the medical, dental, dental hygiene, public health, nursing and sanitary engineering professions, and for other purposes was announced as next in order.

Mr. SCHOEPPPEL. Let the bill go over.

The PRESIDING OFFICER. Objection being heard, the bill will be passed over.

Mr. PEPPER. Mr. President, will the Senator withhold his objection until I can make an explanation?

Mr. SCHOEPPPEL. I am glad to do so, but I may say that this measure is complicated in form, and I believe it should be debated fully and that due and sufficient explanation should be given.

Mr. PEPPER. Mr. President, let me say that this bill provides assistance in the training of doctors, dentists, nurses, and workers in public health agencies and in the administration of hospitals. It is a very important measure.

In view of the fact that it is a Senate bill, if the Senator can examine the bill and possibly be satisfied about it by the time of the next call of the calendar, that will be most desirable. The bill was reported unanimously by the Committee on Labor and Public Welfare. I think it would be very much in the public interest to have the bill passed at this session of Congress, because, inasmuch as it is a Senate bill, it will be difficult to have time to have it subsequently passed by the House of Representatives and finally enacted into law.

Only \$44,000,000 is involved. That is not a great deal, as compared to many of the sums we appropriate.

If the Senator can become acquainted with the bill by the time of the next call of the calendar, I think that will be most helpful.

Mr. TAFT. Mr. President, I may say that I am one of the sponsors of the bill and I am in favor of it. On the other hand, it provides for a substantial departure from the previous Government policy, and provides for a probable expenditure of \$50,000,000. I do not think the bill could properly be explained under the 5-minute rule, during the call of the calendar.

So I would not ask the Senator to withdraw his objection; but I hope the bill will be brought up for consideration at the first possible opportunity.

Mr. PEPPER. Mr. President, I join in that request, because the matter involved in the bill is a most important one.

Mr. SCHOEPPEL. Mr. President, I ask that the bill be passed over at this time.

The PRESIDING OFFICER. Objection being made, the bill will be passed over.

BILL PASSED OVER

The bill (S. 806) authorizing the erection of a monument to Sacajawea was announced as next in order.

Mr. LANGER. Let the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

DENTAL CARE OF UNITED STATES ARMY AND UNITED STATES AIR FORCE.

The bill (S. 2380) to provide more efficient dental care for the personnel of the United States Army and the United States Air Force was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the general officer of the Dental Corps appointed as assistant to the Surgeon General of the Army and the general officer of the dental service appointed as assistant to the Surgeon General of the Air Force shall be known as Chief of the Dental Division, Office of the Surgeon General, United States Army, and as Chief of the Dental Division, Office of the Surgeon General, United States Air Force, respectively, and shall be responsible to their respective Surgeons General for—

(1) planning and making recommendations on all matters relating to the dental health of the Army and Air Force, respectively;

(2) staff supervision of the execution of approved plans pertaining to the dental health of the Army and the Air Force, respectively; and

(3) the progressive development of the dental service of the Army and the Air Force, respectively.

All matters in the Offices of the Surgeons General of the United States Army and the United States Air Force, respectively, pertaining to the dental health of the Army and the Air Force, respectively, shall be referred to the respective chiefs of the dental divisions of such offices.

SEC. 2. The Chief of the Dental Division, Office of the Surgeon General, United States Army, and the Chief of the Dental Division, Office of the Surgeon General, United States Air Force, shall—

(1) establish professional standards and policies for dental practice in the Army and the Air Force, respectively;

(2) conduct inspections and surveys for maintenance of such standards in the Army and the Air Force, respectively;

(3) plan and recommend action pertaining to appointments, advancement, training, assignment, and transfer of dental personnel in the Army and the Air Force, respectively; and

(4) serve as the adviser to the Surgeon General, United States Army, and the Surgeon General, United States Air Force, respectively, on all matters relating to dentistry.

SEC. 3. Under regulations prescribed by the Secretary of the Army and the Secretary of the Air Force, respectively, an officer of the Dental Corps in each major command or installation of the Army or the Air Force, respectively, shall, in addition to his other duties, be assigned as staff dental officer for that command or installation. The staff dental officer shall be responsible to the commander of the command or installation, through appropriate channels, for—

(1) planning and making recommendations on all matters relating to the dental health of the command or installation;

(2) staff supervision of the execution of approved plans pertaining to the dental health of the command or installation;

(3) the progressive development of the dental service in the command or installation; and

(4) advice on all matters relating to dentistry in the command or installation.

SEC. 4. There shall be assigned to the Dental Corps of the Army and to the dental service of the Air Force, respectively, an authorized commissioned officer strength (including non-Regular officers on extended active duty) which shall be not less than 2 commissioned officers for each 1,000 members of the Army and the Air Force, respectively, who are on the active list or on extended active duty.

BILL PASSED OVER

The bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes, was announced as next in order.

Mr. HENDRICKSON. By request, Mr. President, I ask that the bill be passed over.

The PRESIDING OFFICER. The bill will be passed over.

CONVEYANCE TO TEMPLE METHODIST CHURCH, OF SAN FRANCISCO, OF A PORTION OF A FEDERALLY OWNED BUILDING—BILL PASSED OVER

The bill (S. 384) to authorize the Commissioner of Public Buildings to convey to the Temple Methodist Church, a non-profit corporation of San Francisco, Calif., a portion of the federally owned building known as 100 McAllister Street, San Francisco, Calif., and for other purposes, was announced as next in order.

Mr. MORSE. Mr. President, may we have an explanation of the bill?

Mr. DOWNEY. Mr. President, this bill arises from the fact that 15 or 18 years ago the Temple Methodist Church, of San Francisco, erected a large and valuable hotel building in San Francisco. In the same building, and as a part of it, the Temple Methodist Church had its own accommodations for its own church.

During the depression years the hotel became unsuccessful. The property was purchased and taken over by the bondholders. The church lost a very heavy investment in it.

During the war years the Government needed additional space. This hotel was

then taken over by the Government and was converted—rather unsatisfactorily—into office space, and now is being so used, principally by the Bureau of Internal Revenue. The old church quarters are independent of the rest of the building, but are used by the Bureau of Internal Revenue as the cashier's office. In the portion formerly used by the church there still are the sacred objects of the Temple Methodist Church, their insignia, crosses, and so forth.

The Temple Methodist Church has been very anxious to buy this limited portion of the building, which formerly was occupied by the church. The Government has not been willing to sell, because the Government believes it vitally needs the quarters for governmental agencies.

A bill was introduced to allow the church to buy back its old quarters. Both the junior Senator from California and I supported the bill.

The committee was unwilling to recommend that the sale be made, because of the belief of the members of the committee that the Bureau of Internal Revenue could not give up its quarters there.

However, a subcommittee, after making a careful investigation, and the full committee, after careful investigation, worked out the following compromise, namely, the bill now before us, which provides that if and whenever the governmental agencies believe they no longer need this particular part of the building—and that matter is left entirely to the discretion of the Government—then the Temple Methodist Church shall be allowed to purchase that portion of it for a reasonable price, which has been fixed at \$100,000. The right of the Temple Methodist Church to make the purchase expires within 10 years. If the quarters are not vacated and the church does not purchase them within that time, then this entire proceeding becomes null and void.

I may say to the distinguished Senator who inquired, that the entire matter is left to the discretion of the representatives of the Federal Government.

Mr. MORSE. Mr. President, I thank the Senator from California for his explanation, but I wish to study this bill further. I am going to ask that it go over at least until the next call of the calendar, because on the basis of the report from the Department of the Treasury and on the basis of the value of this property to the Federal Government, I find myself not inclined to favor the bill, because I do not think the bill, as I presently understand it, gives to the Federal Government the value it should have for property which now belongs to all the taxpayers of the United States.

Mr. President, these days we hear considerable about the separation of church and State. When we have a bill such as this one, involving a grant to a church, I think we had better be perfectly certain that we are getting 100 cents for each dollar's worth of property conveyed by the Government; and I am not satisfied, on the basis of my present study of the bill, that such will be the case.

81ST CONGRESS
1ST SESSION

H. R. 3191

IN THE SENATE OF THE UNITED STATES

AUGUST 25 (legislative day, JUNE 2), 1949

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. KILGORE to the bill (H. R. 3191) to amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes, viz:

1 On page 19, line 20, after the word "Reservation" insert
2 the following: , officers, warrant officers, and enlisted men
3 of the National Guard of the United States, both ground and
4 air, and the federally recognized National Guard of the
5 several States, Territories, and the District of Columbia".

6 On page 39, after line 15, add a new section, as follows:

7 "SEC. 403. Effective as of August 14, 1945, all officers,
8 warrant officers, and enlisted men of the National Guard of

1 the United States, both ground and air, the federally recog-
2 nized National Guard of the several States, Territories, and
3 District of Columbia—

4 “(1) if engaged for periods in excess of thirty days
5 in any type of training under sections 92, 94, 97, or 99
6 of the National Defense Act, as amended, suffer dis-
7 ability or death in line of duty from disease while so
8 engaged;

9 “(2) if engaged for any period in any type of train-
10 ing under such sections of the National Defense Act,
11 as amended, suffer disability or death in line of duty
12 from injury while so employed; with or without pay,
13 or when engaged in authorized travel to or from such
14 duty, they or their beneficiaries shall in all respects be
15 entitled to all the benefits prescribed by law for civil
16 employees of the United States who are physically
17 injured in line of duty or die as a result thereof, the
18 Federal Security Administration shall have jurisdiction
19 in such cases and shall perform the same duties with
20 reference thereto as in the cases of civil employees
21 of the United States so injured: *Provided*, That the
22 benefits of the employees' compensation accruing under
23 this section shall not be paid concurrently with drill or
24 active-duty pay or pension based upon military service

1 and in the event a person becomes eligible for the bene-
2 fits provided hereunder and is also eligible for or is
3 in receipt of a pension or compensation based upon
4 military service, he or his beneficiaries shall elect which
5 benefits to receive, but any benefits paid hereunder
6 shall be deducted from the monetary benefits that may
7 accrue under Public Law 108, 81st Congress: *Pro-*
8 *vided further*, That for the purpose of determining the
9 benefits, to which entitled under the provisions of this
10 section, such personnel when engaged in authorized
11 training without pay will be held and considered as
12 receiving the pay and allowances they would have re-
13 ceived if in a pay status: *Provided further*, That no
14 back pay, compensation, or death gratuity shall be held
15 to have accrued as a result of this Act for any period
16 of time prior to the effective date of this Act.”

AMENDMENTS

Intended to be proposed by Mr. KILGORE to the bill (H. R. 3191) to amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

AUGUST 25 (legislative day, JUNE 2), 1949
Ordered to lie on the table and to be printed

81ST CONGRESS
1ST SESSION

H. R. 3191

IN THE SENATE OF THE UNITED STATES

AUGUST 26 (legislative day, JUNE 2), 1949

Ordered to lie on the table and to be printed

AMENDMENTS

Intended to be proposed by Mr. MORSE to the bill (H. R. 3191) to amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes, viz:

1 On page 22, at the end of line 14, insert a colon and
2 the following: "*Provided, however,* That this subsection shall
3 not apply to a master or a member of the crew of any vessel".

4 On page 37, beginning with line 24, strike out all to
5 and including line 6, page 38, and insert in lieu thereof the
6 following:

1 “(g) The amendment made by section 201 of this Act
2 to section 7 of the Federal Employees’ Compensation Act,
3 making the remedy and liability under such Act exclusive
4 except as to masters or members of the crew of any vessel,
5 shall apply to any case of injury or death occurring prior
6 to the date of enactment of this Act: *Provided, however,*
7 That any person who has commenced a civil action or an
8 action in admiralty with respect to such injury or death prior
9 to such date, shall have the right at his election to continue
10 such action notwithstanding any provision of this Act to
11 the contrary, or to discontinue such action within six months
12 after such date before final judgment and file claim for
13 compensation under the Federal Employees’ Compensation
14 Act, as amended, within the time limited by sections 15
15 to 20 of such Act (including any extension of such time
16 limitations by any provision of this Act), or within one year
17 after enactment of this Act, whichever is later. If any such
18 action is not discontinued and is decided adversely to the
19 claimant on the ground that the remedy or liability under
20 the Federal Employees’ Compensation Act is exclusive, or
21 on jurisdictional grounds, or for insufficiency of the pleadings,
22 the claimant shall, within the time limited by sections 15
23 to 20 of such Act (including any extension of such time
24 limitations by any provision of this Act), or within one

1 year after final determination of such cause, whichever is
2 later, be entitled to file a claim under such Act.”

3 On page 39, between lines 17 and 18, insert the follow-
4 ing new section:

5 “SEAMEN

6 “SEC. 305. (a) Nothing contained in this Act shall be
7 construed to affect the exclusion of certain seamen (as
8 defined in the Act of March 24, 1943, ch. 26, 57 Stat. 45,
9 as amended; 50 U. S. C., Appendix, sec. 1291) from the
10 terms of the Federal Employees’ Compensation Act, as
11 provided by such Act of March 24, 1943, as amended.

12 “(b) Nothing contained in this Act shall be construed
13 to affect any maritime rights and remedies of a master or
14 member of the crew of any vessel.”

AMENDMENTS

Intended to be proposed by Mr. Morse to the bill (H. R. 3191) to amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

AUGUST 26 (legislative day, JUNE 2), 1949

Ordered to lie on the table and to be printed

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment was agreed to.

Mr. LUCAS. Mr. President, I send to the desk an amendment, which I ask to have read.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 21, after line 12, it is proposed to insert:

SEC. 607. Compensation of the superintendents of the House and Senate Press Galleries shall be at the basic rates of \$5,820 per annum and the superintendents of the House and Senate Periodical Galleries at the basic rates of \$4,500 per annum. Basic compensation of the four assistants in each of the House and Senate Press Galleries shall be, one position at \$4,500, one at \$2,940, one at \$2,940, and one at \$2,100 per annum.

Mr. LUCAS. Mr. President, I should like to speak briefly on the amendment. The amendment, of course, could be placed in a legislative bill, but I think it is proper to consider it in connection with the pending bill. Here is a situation, it seems to me, which requires a remedy on the basis of equity and equality, as we move along increasing the salaries in other classes of employees. The superintendent and assistants are men who have made a career of public service; in most instances their service ranges from 10 years to 35. The Senate superintendent has served for 27 years, the House for 37. They are paid basic salaries of \$4,320.

The background knowledge that they have acquired of Congress, their know-how in serving the press, their usefulness as references, the detailed record of votes and other matters which they maintain each day, constitute invaluable assistance to the press and to the Congress itself.

Congress benefits greatly by their background and work. They are invaluable as political references, and hardly a day passes that they do not answer a score or more of inquiries in regard to congressional history.

It is impossible to overemphasize their value in this respect. On a normal working day there are from 50 to 100 reporters in the Senate Press and Periodical Galleries, and nearly that many in the House Galleries. The Press Gallery itself has a membership of 800 reporters, the Periodical Gallery 200. There are eight trunk telephone lines to the galleries, and spot checks have shown that there will be as many as 240 telephone calls a day, for information, from downtown Washington newspaper offices by reporters who need information. The galleries serve every newspaper and magazine of any size or importance in the United States. The combined circulation of magazines alone represented exceeds 100,000,000 copies a month.

Before outlining the detailed duties performed by the attendants, we should like to point out that their assistance has been sought and their value generally recognized by both major political parties. Both parties leave to the standing committees and the gallery attendants the entire task of allotting credentials and handling press facilities at the national conventions.

The Department of State requested the standing committees and galleries to perform this same responsibility at international conferences including the United Nations Conference in San Francisco.

Mr. President, I state these facts to demonstrate to the Senate and to the country the invaluable services rendered by the men in these particular positions, and the great responsibility which is theirs. As I said in the beginning, they are career men. We hear very little about them. We come and go in the Senate, and sometimes we fail to realize what the responsibility is, the tremendous importance of this particular group, and the valuable service they render to the Congress, to the press, to the country, and to the world. I think it nothing more than fair, right, and equitable that these few gentlemen should get these slight increases in salary.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Illinois.

The amendment was agreed to.

Mr. LONG. Mr. President, I send to the desk an amendment, which I ask to have stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 38, between lines 13 and 14, it is proposed to insert a new section, as follows:

SEC. 1202. Section 604 (d) of the Federal Employees Pay Act of 1945, as amended, is amended to read as follows:

"(d) (1) Hereafter, for all pay computation purposes affecting officers or employees in or under the executive branch, the judicial branch, or the District of Columbia municipal government, basic per annum rates of compensation established by or pursuant to law shall be regarded as payment for employment during 52 basic administrative workweeks of 40 hours.

"(2) Whenever for any such purpose it is necessary to convert a basic monthly or annual rate to a basic biweekly, weekly, daily, or hourly rate, the following rules shall govern:

"(A) A monthly rate shall be multiplied by 12 to derive an annual rate;

"(B) An annual rate shall be divided by 52 or 26, as the case may be, to derive a weekly or biweekly rate;

"(C) A weekly or biweekly rate shall be divided by 40 or 80, as the case may be, to derive an hourly rate; and

"(D) A daily rate shall be derived by multiplying an hourly rate by the number of daily hours of service required.

"(3) All rates shall be computed to the nearest cent, counting one-half cent and over as a whole cent."

On page 3, line 8, after "act" insert "except title XII."

On page 16, line 7, after "weekly," insert "biweekly."

On page 38, line 14, strike out "Sec. 1202" and insert in lieu thereof "Sec. 1203."

Mr. LONG. Mr. President, the purpose of the amendment is to make it easier to compute the amount of money to be paid each week and each month. In other words, we have an annual wage rate, and it is necessary for the supervisors and accountants to break it down into a weekly pay roll, to get it down to the right penny, and not have to vary it or to change it from day to day and from week to week. The amendment is offered to simplify the computations.

Mr. KNOWLAND. The amendment deals purely with computations, and does not make any change in the basic rates of pay. Is that correct?

Mr. LONG. It will save the Government a great deal of bookkeeping by simplifying the computations.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, I send to the desk another amendment.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 6 it is proposed to insert new clause (16) in section 202, reading as follows: "(16) the corporations under the supervision of the Farm Credit Administration."

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, in view of the fact that the ceiling has been lowered from \$15,000 to \$12,500, there is an officer whose salary would have been \$15,000, and the bill lowered it to \$12,500 with the rest. There are certain corporations whose employees have never been under the Classification Act, and this would simply leave them out.

Mr. President, I now offer an additional amendment which I send to the desk and ask to have stated. It would leave out certain employees of the United Nations who have never been under the civil service. I ask that the two amendments be voted on en bloc.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. In section 202, on page 3, line 17, it is proposed to insert after the semicolon the following: "and positions in or under the Department of State which are (a) connected with the representation of the United States to international organizations; or (b) specifically exempted by law from the Classification Act of 1923, as amended, or any other classification or compensation law."

Mr. LONG. Mr. President, from an examination of the bill Senators will see that it is broad and inclusive, including every one in the Federal service except those persons who are specifically exempted from it by the terms of pages 2, 3, 4, and 5. Therefore these are two or three minor categories which should have been exempted and which we did not catch in studying the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Louisiana.

The amendment was agreed to.

Mr. LANGER. Mr. President, an examination of page 15 of the report shows numerous employees who will receive almost no increase under the Classification Act. One group will receive \$1.72; another group will receive \$6.48; another group will receive \$42, and another group will receive \$14.

I offer, therefore, Mr. President, an amendment providing that the first four

groups shall receive an increase of \$100 each. That is to take care of employees in the lower brackets.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. On page 15 it is proposed to strike out the first four lines in the table and insert in lieu thereof the following:

GS-1.....	\$2,200	\$2,280	\$2,360	\$2,440	\$2,520	\$2,600	\$2,680
GS-2.....	2,450	2,530	2,610	2,690	2,770	2,850	2,930
GS-3.....	2,700	2,780	2,860	2,940	3,020	3,100	3,180
GS-4.....	3,000	3,080	3,160	3,240	3,320	3,400	3,480

Mr. LANGER. I believe, Mr. President, that a man should not be called upon to support a family on \$2,100 a year.

Mr. FERGUSON. Mr. President, will the Senator yield?

Mr. LANGER. I yield.

Mr. FERGUSON. Can the Senator state the number of employees involved?

Mr. LANGER. In one grade there are 12,000; in another grade there are 123,-817.

Mr. FERGUSON. Will the Senator state what the cost will be?

Mr. LANGER. I cannot tell, because I have not computed it. I am simply offering an amendment from the floor. But I believe that in simple justice and equity, when the report shows that the increase is so trifling for some of the employees who have worked for years and years, the increase should be made applicable to them.

Mr. LONG. Mr. President, if the Senator will yield, I believe I can tell him into what grades these persons would fall.

Mr. LANGER. I yield.

Mr. LONG. Grades GS-1 and GS-2 are the only 2 grades that would be affected. There are 19,000 persons who would be in the proposed grade GS-1. As a rough estimate I would say it would probably cost approximately \$1,000,000.

In grade GS-2 the lowest increase is \$66. The next lowest increase is \$80. Therefore the increase would not be very great. I should estimate that it would cost an additional \$1,000,000. It would cost approximately \$2,000,000 to take care of the situation.

Mr. President, I would say that the reason those grades were left out was because it was felt that in many cases those persons are actually receiving much more than the going rate in private employment for similar work. Any person in the entire classified service would receive a minimum in his grade of \$2,100. If we hired an office boy to work in the office we could not pay him any less than \$175 a month, even though that boy might merely lick stamps, fold literature, and put it into envelopes and close them. So it was felt that we should leave a low entrance salary so that the Government could pay a salary comparable with that which would be paid in private employment for comparable work. These persons are not married. They are, for the most part, youngsters, or young ladies just coming out of business college. It was felt that they were being paid 60 or 70 percent more than they would receive in private employment. So, in order to make it a little bit lighter on the taxpayers, it was thought these people should receive salaries somewhat comparable to those which they would receive in private employment.

If the Senate is disposed to increase it, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Dakota [Mr. LANGER].

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there are no further amendments, the question is on the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. JOHNSTON of South Carolina. Mr. President, I ask unanimous consent that the Senate consider Calendar No. 1129, House bill 5931.

There being no objection, the Senate proceeded to consider the bill (H. R. 5931) to establish a standard schedule of rates of basic compensation for certain employees of the Federal Government; to provide an equitable system for fixing and adjusting the rates of basic compensation of individual employees; to repeal the Classification Act of 1923, as amended; and for other purposes.

Mr. JOHNSTON of South Carolina. Mr. President, I move that House bill 5931 be amended by striking out all after the enacting clause and inserting in lieu thereof Senate bill 2379, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

The PRESIDING OFFICER. Without objection, Senate bill 2379 is indefinitely postponed.

Mr. JOHNSTON of South Carolina. Mr. President, I move that the Senate insist upon its amendment, request a conference with the House of Representatives thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. JOHNSTON of South Carolina, Mr. LONG, Mr. GRAHAM, Mr. LANGER, and Mr. THYE conferees on the part of the Senate.

Mr. JOHNSTON of South Carolina. Mr. President, I ask that the bill as amended be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG subsequently said: Mr. President, I was mistaken as to the effect of the amendment of the Senator from North Dakota because I had felt that he was moving to bring GS-1, GS-2, GS-3, and GS-4, in the classification bill, up to \$100. Only a relatively small number were receiving an increase of less than \$100, and I thought that the Senator's purpose was to bring those people up to a gross of \$100. I now find that the effect of his amendment was to add \$100 on top of the increase those people will be receiving, which was entirely different from what I had estimated. I would judge that would cost about \$38,900,000, just as an off-hand estimate, taking into

consideration the number of people involved.

Since the bill has already been passed, I will not move that it be reconsidered, but I will state that I feel that in conference the conferees should consider the fact that the Senate did not fully understand what it was voting on when the amendment was agreed to, and should not be bound in an ironclad fashion by the amendment.

Mr. LANGER. That is entirely satisfactory, Mr. President.

COMPENSATION FOR EMPLOYEES INJURED IN THE PERFORMANCE OF THEIR DUTIES

Mr. LUCAS. Mr. President, I move that the Senate proceed to consider Calendar No. 843, House bill 3191.

The PRESIDING OFFICER. The clerk will state the bill by title.

The CHIEF CLERK. A bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois.

The motion was agreed to, and the Senate proceeded to consider the bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes, which had been reported from the Committee on Labor and Public Welfare, with amendments.

The PRESIDING OFFICER. The clerk will proceed to state the amendments of the committee.

The amendments were, on page 3, line 5, before the word "shall", to strike out "or of any two thereof"; on page 5, line 2, after the word "or", to insert "involves"; in line 8, after "(b)", to insert "and in cases involving disfigurement"; on page 12, line 21, after the word "capacity", to insert a colon and the following proviso: "Provided, That for any period of temporary total disability the augmentation of his basic compensation for disability payable under section 3 shall be limited to that part of his monthly pay which is not in excess of \$420"; on page 14, line 12, after the word "for", to strike out "total"; in line 15, after the word "be", to insert "more than \$525 per month and in cases of total disability shall not be"; in line 18, after the word "compensation", to insert "for total disability"; on page 16, line 17, after the numerals "12", to insert "or the sum of \$525"; on page 19, line 5, after "United States", to strike out "but not including Members of Congress"; on page 20, line 25, after the word "occurred", to insert

"before May 1, 1943, in the cases of persons employed in the postal service whose compensation was affected by the act of April 9, 1943 (57 Stat. 59), or"; on page 21, line 3, after the numerals "1941", to insert "in all other cases"; in line 6, after the word "in", to strike out "neither" and insert "no"; after line 16, to strike out:

(b) The remedy afforded to any person under this act with respect to his own injury or the death of another individual shall be the exclusive remedy against, and be in place of any other legal liability of the United States or any of its instrumentalities on account of such injury or death, where such liability is determinable by direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute.

And in lieu thereof to insert the following:

(b) The liability of the United States or any of its instrumentalities under this act or any extension thereof with respect to the injury or death of an employee shall be exclusive, and in place of all other liability of the United States or such instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and anyone otherwise entitled to recover damages from the United States or such instrumentality, on account of such injury or death, in any direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute.

On page 22, line 15, after "SEC. 202.", to insert "(a)"; on page 23, after line 13, to insert:

(b) Section 9 of the Federal Employees' Compensation Act, as so amended, is further amended by inserting immediately before the last sentence of subsection (a) of such section the following: "The Administrator may, under such limitations or conditions as he shall deem necessary, authorize employing establishments of the United States to provide for the initial furnishing of medical and other benefits under this section, and the Administrator may certify for payment out of the Employees' Compensation Fund vouchers for expenses thus incurred for such benefits, upon certification by the person required by section 24 to make reports of injury that the expense was incurred in respect to injury which was accepted by the employing establishment as probably compensable under this act. The form and content of such certification shall be prescribed by the Administrator."

On page 32, after line 20, to insert:

ACCIDENT PREVENTION AND ANNUAL REPORTS

SEC. 209. Section 33 of the Federal Employees' Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections "(a)" and "(b)" and by adding a new subsection designated as "(c)," as follows:

"(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Adminis-

trator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this act. Departments and other agencies of the United States shall keep such records of injuries and accidents to persons covered by this act, whether or not resulting in loss of time or the payment or furnishing of benefits, and make such statistical or other reports and upon such forms as the Administrator may by regulation prescribe."

And on page 38, after line 22, to strike out:

ACCIDENT PREVENTION AND ANNUAL REPORTS

SEC. 305. Section 33 of the Federal Employees' Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections "(a)" and "(b)" and by adding a new subsection designated as "(c)," as follows:

"(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this act."

The amendments were agreed to.

The PRESIDING OFFICER. That completes the committee amendments. The bill is open to further amendment.

Mr. KNOWLAND. Mr. President, I wonder if for the RECORD the junior Senator from Illinois will not make a brief explanation as to the changes.

Mr. DOUGLAS. Mr. President, this bill is to revise the Compensation Act for disabling accidents suffered by Federal employees. The original act was passed in 1916. The last amendment to the bill was adopted in 1927, or nearly a quarter of a century ago. At that time the maximum monthly benefit which could be paid to any Federal employee was fixed at \$116.66, which amounted to \$1,400 a year. The standard scale of benefits was to be 66⅔ percent of earnings. Therefore, the imposition of the \$1,400 a year maximum meant that all earnings in excess of \$2,100 were not protected.

The 1927 scale was relatively adequate for the 1920's, because the average salary of a Government employee was then within the \$2,000-\$2,500 scale. Since then, with the increase in the cost of living and the general upward movement of salaries, Federal salaries have also markedly increased, but the ceiling of compensation rates has not. So that today the maximum amount a person can receive in case of injury is still \$1,400 a year, or \$116.66 a month. That means that in the case of the \$4,000 a year man, the protection is not 66⅔ percent of his earnings, but only 35 percent, and in the case of the \$5,000 a year man the protection is slightly less than 30 percent.

We have raised this ceiling very markedly, to \$525 a month. In this connec-

tion we have also added, instead of the straight benefit of 66⅔ percent, an additional benefit of 8⅓ percent if the injured worker has a dependent. Therefore, an injured worker with one dependent will receive 75 percent of his pay as accident compensation if and when injured. But we provide that this 8⅓ percent is taken off in the case of all earnings in excess of \$420 a month, or approximately \$5,000 a year. By imposing the limit of \$525 a month, we have insured that no worker will receive more when injured than his net pay, minus income tax, would be if employed and that there will always be an appreciable difference between the two. This is, of course, done to prevent malingering and to give the injured worker an inducement to recover as quickly as possible from temporary disabilities.

In addition to this, in the case of death we have increased the scales for widows and children, raising them by 10 and 5 percent, respectively, but keeping the maximum of 75 percent.

We have revised the schedule for permanent partial disability, to make it conform to the schedule provided in the Longshoremen's Act.

We have increased burial benefits by from \$200 to \$400.

We have provided additional care where a person is totally disabled and needs an attendant. There are other improvements which are outlined in the committee report.

In all, we estimate that the added cost will be approximately \$7,000,000 a year, and to this will be added a total of approximately \$7,000,000 more spread over a 6-year period, if we accept, as the committee proposes, the House amendment. This provides that in case of serious disability, such as the loss of an eye, a foot, an arm, or like injury, if the person has been injured since 1941, the benefits will be raised to the scale outlined in the bill.

I understand that the Senator from Oregon [Mr. MORSE] has an amendment on coverage to apply to merchant seamen, and at the appropriate time I can say that the committee is ready to accept his amendment. But I shall first be glad to try to answer any questions which the Senator from California may have to ask.

Mr. KNOWLAND. I thank the Senator for his very clear explanation.

Mr. DOUGLAS. I thank the Senator very much for his courtesy.

Mr. WHERRY. Did the Senator say the bill would be retroactive to 1941?

Mr. DOUGLAS. Only in the case of permanent partial disabilities. Those who have suffered such disabilities since 1941 are to be allowed the new scale in the future.

Mr. WHERRY. Does the Senator have any idea of what amount of money that would involve?

Mr. DOUGLAS. Seven million dollars, spread over a 6-year period.

Mr. WHERRY. Is that what it would amount to retroactively?

Mr. DOUGLAS. That is correct; a total of \$7,000,000, spread over a 6-year period. That is an item of cost added by the House. The ordinary increase will amount to about \$7,000,000 a year.

Mr. WHERRY. I am not asking about that.

Mr. DOUGLAS. The retroactive feature is estimated to cost a total of \$7,000,000, distributed over a period of 6 years, or an average of about \$1,200,000 a year. I should now be glad to have the Senator from Oregon present any amendment which he may have in mind.

Mr. MORSE. Mr. President, I wish to say, first, that I appreciate the Senator's courtesy in calling my office and notifying me that this bill was before the Senate so that I might come to the Senate Chamber and present my amendment. I offer the amendment and ask that it may be stated. I understand that the Senator from Illinois is willing to accept the amendment.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Oregon [Mr. MORSE].

The LEGISLATIVE CLERK. On page 22, at the end of line 14, it is proposed to insert a colon and the following: "Provided, however, That this subsection shall not apply to a master or a member of the crew of any vessel."

On page 37, beginning with line 24, strike out all to and including line 6, page 38, and insert in lieu thereof the following:

(g) The amendment made by section 201 of this act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such act exclusive except as to masters or members of the crew of any vessel, shall apply to any case of injury or death occurring prior to the date of enactment of this act: *Provided, however,* That any person who has commenced a civil action or an action in admiralty with respect to such injury or death prior to such date, shall have the right at his election to continue such action notwithstanding any provision of this act to the contrary, or to discontinue such action within 6 months after such date before final judgment and file claim for compensation under the Federal Employees' Compensation Act, as amended, within the time limited by sections 15 to 20 of such act (including any extension of such time limitations by any provision of this act), or within 1 year after enactment of this act, whichever is later. If any such action is not discontinued and is decided adversely to the claimant on the ground that the remedy or liability under the Federal Employees' Compensation Act is exclusive, or on jurisdictional grounds, or for insufficiency of the pleadings, the claimant shall, within the time limited by sections 15 to 20 of such act (including any extension of such time limitations by any provision of this act), or within 1 year after final determination of such cause, whichever is later, be entitled to file a claim under such act.

On page 39, between lines 17 and 18, insert the following new section:

SEAMEN

SEC. 305. (a) Nothing contained in this act shall be construed to affect the exclusion of certain seamen (as defined in the act of March 24, 1943, ch. 26, 57 Stat. 45, as amended; 50 U. S. C., Appendix, sec. 1291) from the terms of the Federal Employees' Compensation Act, as provided by such act of March 24, 1943, as amended.

"(b) Nothing contained in this act shall be construed to affect any maritime rights and remedies of a master or member of the crew of any vessel.

Mr. MORSE. Mr. President, I understand the Senator from Illinois is willing

to accept the amendment. In effect it continues the seamen in exactly the same legal position which they presently enjoy.

This matter was fought out in 1941, when an attempt was made to bring the seamen under the act, and it was defeated at that time. This amendment continues the historical legal pattern, as far as the seamen are concerned, in respect to workmen's compensation rights. All my amendment does, in effect, is to leave the seamen exactly in the position in which they now are in respect to their legal rights to compensation, giving them, under admiralty law, the right to sue for their compensation.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

Mr. MAGNUSON. Mr. President, I want to associate myself with the amendment offered by the Senator from Oregon. This is a matter which has been before the Merchant Marine and Fisheries Subcommittee. We had previously submitted a similar amendment of the same tenor, and I understand from the Senator from Oregon that his amendment is in similar language. I have had several discussions with the junior Senator from Illinois about the matter, and I think it is a proper amendment. What it does, of course, as the Senator from Oregon has said, is to leave the seamen in their tort right of compensation just as they are now without placing them under the act. I think that is fair and equitable, and the matter should be left in that way. As I said, I want to take this opportunity to thank the Senator from Oregon, and to associate myself with the amendment he has offered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon [Mr. MORSE].

The amendment was agreed to.

Mr. MORSE. Mr. President, I ask unanimous consent to have printed at this point in the RECORD the explanation of my amendment just agreed to, as I intend the purpose of my amendment to be. The Senator from Illinois [Mr. DOUGLAS] wishes to obtain unanimous consent to have printed without prejudice at this point in the RECORD also, immediately following my explanation, his interpretation of the amendment.

The PRESIDING OFFICER. Without objection, the two statements will be printed in the RECORD.

The statements are as follows:

STATEMENT BY SENATOR MORSE

The amendments being offered to H. R. 3191, the bill amending the Federal Employees' Compensation Act, are concerned with two subjects: (1) the status of seamen under the Compensation Act, and (2) the status of pending suits against the Government by Federal employees, brought under the Federal Tort Claims Act and other statutes.

The bill, as passed by the House and reported with amendments, by the Senate Committee on Labor and Public Welfare, provides that as to all Federal employees the Compensation Act benefits shall be exclusive and in place of any other liability of the United States or its instrumentalities. Thus,

by section 201 of the bill, a new subsection is added to section 7 of the Compensation Act, reading as follows:

"(b) The liability of the United States or any of its instrumentalities under this act or any extension thereof with respect to the injury or death of an employee shall be exclusive, and in place of all other liability of the United States or such instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and anyone otherwise entitled to recover damages from the United States or such instrumentality, on account of such injury or death, in any direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute."

In the report of the Senate committee, this provision is explained as follows:

"Sec. 201. Section 7 of the act would be amended by designating the present language as subsection '(a)' and by adding a new subsection '(b)'. The purpose of the latter is to make it clear that the right to compensation benefits under the act is exclusive and in place of any and all other legal liability of the United States or its instrumentalities of the kind which can be enforced by original proceeding whether administrative or judicial, in a civil action or in admiralty or by any proceeding under any other workmen's compensation law or under any Federal tort liability statute. Thus, an important gap in the present law would be filled and at the same time needless and expensive litigation will be replaced with measured justice. The savings to the United States, both in damages recovered and in the expense of handling the lawsuits, should be very substantial and the employees will benefit accordingly under the Compensation Act as liberalized by this bill.

"Workmen's compensation laws, in general, specify that the remedy therein provided shall be the exclusive remedy. The basic theory supporting all workmen's compensation legislation is that the remedy afforded is a substitute for the employee's (or dependent's) former remedy at law for damages against the employer. With the creation of corporate instrumentalities of Government and with the enactment of various statutes authorizing suits against the United States for tort, new problems have arisen. Such statutes as the Suits in Admiralty Act, the Public Vessels Act, the Federal Tort Claims Act, and the like, authorize in general terms the bringing of civil actions for damages against the United States. The inadequacy of the benefits under the Employees' Compensation Act has tended to cause Federal employees to seek relief under these general statutes. Similarly corporate instrumentalities created by the Congress among their powers are authorized to sue and be sued, and this, in turn, has resulted in filing of suits by employees against such instrumentalities based upon accidents in employments.

"This situation has been of considerable concern to all Government agencies and especially to the corporate instrumentalities. Since the proposed remedy would afford employees and their dependents a planned and substantial protection, to permit other remedies by civil action or suits would not only be unnecessary, but would in general be uneconomical, from the standpoint of both the beneficiaries involved and the Government."

Under existing law, Government-employed seamen have been accorded the right to assert their maritime rights against the United States under the Suits in Admiralty Act and Public Vessels Act, and, moreover, have been permitted an election to accept the benefits of the compensation in lieu of their maritime rights. The benefits to seamen under maritime law, which would be wiped out prospec-

tively and to some extent retroactively by section 201 of the bill, are regarded as valuable rights by federally employed seamen, whose numbers exceed 16,000 at the present time. The representatives of maritime unions are now strongly urging, since the bill was placed on the Senate Calendar, that their right to sue the United States under maritime law be preserved and that they be kept in status quo. It would appear that none of the seamen's representatives were apprised of the implications of the bill insofar as it affects their maritime rights. Consequently none of the representatives of maritime labor appeared before the committees which considered the bill, and upon a perusal of the hearings I find no evidence that the effect of the bill upon seamen was explored on the merits. I think this is particularly unfortunate, although undoubtedly inadvertent, in view of the fact that seamen for years have opposed exclusive coverage under workmen's compensation.

Because I think there is merit in their position, and because I feel they should not be deprived of benefits they have enjoyed for many years without opportunity to have their arguments carefully considered by the appropriate committees of the Congress, I am proposing these amendments which are intended, insofar as possible, to preserve the rights of federally employed seamen under existing law to proceed against the United States apart from the Compensation Act. The purpose is likewise to preserve the status quo as to choice of remedies by seamen.

The first amendment, therefore, proposes to add the following proviso to section 7 (b) of the Federal Employees' Compensation Act, which subsection would be inserted in that act by section 201 of the bill: "Provided, however, That this subsection shall not apply to a master or a member of the crew of any vessel."

By this proviso, it is intended that the special provision, as added to the Compensation Act by this bill, declaring the liability of the United States under that act to be exclusive, shall not apply to seamen employed by the United States. It is not intended that the right of federally employed seamen, as heretofore recognized by the courts, to maintain suits against the United States, shall be lessened by this bill. In short, the amendment is intended merely to preserve the status quo as to seamen. If the Congress should decide to go into this matter further at some future session, it could then do so without delaying the enactment of this urgently needed bill.

I propose further that a new section, Section 305, be added to the bill on page 39, between lines 17 and 18, as follows:

"SEAMEN

"Sec. 305. (a) Nothing contained in this act shall be construed to affect the exclusion of certain seamen (as defined in the Act of March 24, 1943, chapter 26, 57 Stat. 45, as amended; 50 U. S. C. Appendix, sec. 1291) from the terms of the Federal Employees' Compensation Act, as provided by such act of March 24, 1943, as amended.

"(b) Nothing contained in this act shall be construed to effect any maritime rights and remedies of a master or member of the crew of any vessel."

Subsection (a) of the proposed Section 305 is necessary because of the special status of seamen on vessels that were operated under General Agency agreements with the War Shipping Administration, now succeeded by the Maritime Commission. By the so-called Clarification Act of March 24, 1943, as amended (50 U. S. C., Appendix, Sec. 1291), seamen on vessels so operated are excluded from coverage under the Federal Employees' Compensation Act, and it is not intended to

supersede the Clarification Act by these amendments. While the House Report on the bill (House Rept. No. 729, p. 13) states that it is not intended to repeal this specific statutory exclusion, doubts have been expressed as to whether the bill and the explanation in the House report would have the intended effect. Consequently, to resolve doubts on this score, subsection (a) of Section 305 is proposed, in order to maintain the status quo under the Clarification Act.

Subsection (b) of the proposed new Section 305 is intended out of caution, to reaffirm what is accomplished by the proposed amendment to Section 201 of the bill, lest some other provision of the bill which, in some way not now foreseen, might be construed to take away any election of remedies that seamen might now have. The new subsection would make clear that no provision of this amending act, as distinguished from the existing Compensation Act itself, shall be construed to affect any maritime rights or remedies of seamen. The purpose is to reserve to seamen whatever rights they now have, or may be held to have, under maritime law, and to allay the fears that have been expressed that the amendments to the Compensation Act being made by this bill will be construed to negative or reduce any of the maritime rights and remedies of seamen.

2. It will be observed that Section 303 (g) of the bill, on pages 37 and 38, states that the exclusive remedy under the Compensation Act, as provided in the amendment made by Section 201 of the bill, shall not apply to cases of injury or death in which liability under laws other than the Compensation Act was "finally determined" prior to the enactment of the present bill. The effect of this provision is to substitute the remedies provided in the Compensation Act for remedies being pursued by Federal employees in a large number of civil and admiralty actions. Thus rights, if any, presently existing and being asserted in pending court proceedings would be wiped out, automatically. It appears to me that such retroactive effect is not desirable or equitable. Claimants merit better treatment from their government.

The amendment I propose, as a substitute for section 303 (g) of the bill, reads as follows:

"(g) The amendment made by section 201 of this act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such act exclusive except as to masters and members of the crew of any vessels, shall apply to any case of injury or death occurring prior to the date of enactment of this act: *Provided, however,* That any person who has commenced a civil action or an action in admiralty with respect to such injury or death prior to such date, shall have the right at his election to continue such action notwithstanding any provision of this act to the contrary, or to discontinue such action within 6 months after such date before final judgment and file claim for compensation under the Federal Employees' Compensation Act, as amended, within the time limited by sections 15 to 20 of such act (including any extension of such time limitations by any provision of this act), or within 1 year after enactment of this act, whichever is later. If any such action is not discontinued and is decided adversely to the claimant on the ground that the remedy or liability under the Federal Employees' Compensation Act is exclusive, or on jurisdictional grounds, or for insufficiency of the pleadings, the claimant shall, within the time limited by sections 15 to 20 of such act (including any extension of such time limitations by any provision of this act), or within 1 year after final determination of such cause, whichever is later, be entitled to file a claim under such act."

The effect of this amendment would be to give Federal employees, for a limited period, a right to elect; in certain situations, whether to pursue their remedies (if they have any) sought in pending cases or to come under the terms of the Compensation Act. Thus, the exclusive remedy provision of section 201 would not automatically apply with respect to an injury or death occurring prior to the date of enactment of this bill if a civil action or an action in admiralty had been commenced with respect thereto prior to the date of enactment of this bill. Persons maintaining such actions could discontinue them within 6 months, before final judgment, and be entitled to file a claim for compensation within the time limits provided in the Federal Employees' Compensation Act, as amended, or within 1 year after the enactment of this bill, whichever is later. Moreover, in recognition of the fact that some legal actions might be decided adversely to the claimant on grounds other than the merits of the claim, it is provided that persons whose pending claims are dismissed on jurisdictional grounds, insufficiency of the pleadings, or because the remedy under the Compensation Act is exclusive, may file claim under the Compensation Act within similar time limitations.

STATEMENT BY SENATOR DOUGLAS

Mr. President, I should like to state my ground for agreeing to the amendments offered by the Senator from Oregon. The primary consideration for accepting the Senator's amendments preserving the maritime rights and other statutory remedies of seamen is the fact that no hearings were held, no arguments were heard, and no discussion was had on this aspect of the pending bill.

Rather than make a summary disposition of these seamen's rights at this time, or to delay for additional hearings the whole measure affecting compensation rights of all Government employees, it seems wiser, as these amendments do, to preserve the status quo as to such rights of seamen. It is my understanding that we do this pending, and without prejudice to, a full consideration by the Congress on the basis of adequate hearings (a) of the alleged merits or demerits of the Compensation Act benefits as compared with traditional and statutory maritime remedies and (b) of the justice or injustice of, or specific circumstances for, permitting these Federal employees to have an election of remedies denied to others.

It is my further understanding that this bill as amended will only change the status quo of seamen to the extent that it increases compensation rights of those Government-employed seamen covered by the act. For the same reason, namely, that we have had no hearings on the matter, we are not seeking to legislate affirmatively as to certain claims and denial of a right of election of remedies under existing laws, which claims and denials have not yet been adjudicated by the Supreme Court, although various other Federal courts have, in effect, held that federally employed seamen have such an election.

In short, until the matter may be more fully considered by Congress, we seek by the amendments merely to make sure that seamen shall lose no existing rights.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill H. R. 3191 was read the third time and passed.

Mr. DOUGLAS. Mr. President, I move that the Senate insist upon its amendment, request a conference with the House of Representatives thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. DOUGLAS, Mr. NEELY, Mr. WITHERS, Mr. TAFT, and Mr. DONNELL conferees on the part of the Senate.

CORRECTION OF THE RECORD

Mr. SPARKMAN. Mr. President, in the CONGRESSIONAL RECORD of September 28, on page 13765, in a statement I made with reference to the responsibility of the Federal Deposit Insurance Corporation, this sentence appears:

They represent the deposits of 9,000,000 Americans.

That figure should be 90,000,000. I ask unanimous consent that the permanent RECORD be corrected accordingly.

The PRESIDING OFFICER. Without objection, it is so ordered.

STABILIZATION OF PRICES OF AGRICULTURAL COMMODITIES

Mr. LUCAS. Mr. President, in line with the previous statements I have made, I now move that the Senate proceed to consider Senate bill 2522, to stabilize prices of agricultural commodities.

The motion was agreed to; and the Senate proceeded to consider the bill (S. 2522) to stabilize prices of agricultural commodities.

The bill is as follows:

Be it enacted, etc., That this act may be cited as the "Agricultural Act of 1949."

TITLE I—BASIC AGRICULTURAL COMMODITIES

SEC. 101. The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basic agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 percent of the parity price of the commodity nor less than the level provided in subsections (a), (b), and (c) as follows:

(a) For tobacco (except as otherwise provided herein), corn, wheat, and rice, if the supply percentage as of the beginning of the marketing year is:

Not more than 102-----	90
More than 102 but not more than 104--	89
More than 104 but not more than 106--	88
More than 106 but not more than 108--	87
More than 108 but not more than 110--	86
More than 110 but not more than 112--	85
More than 112 but not more than 114--	84
More than 114 but not more than 116--	83
More than 116 but not more than 118--	82
More than 118 but not more than 120--	81
More than 120 but not more than 122--	80
More than 122 but not more than 124--	79
More than 124 but not more than 126--	78
More than 126 but not more than 128--	77
More than 128 but not more than 130--	76
More than 130-----	75

(b) for cotton and peanuts, if the supply percentage as of the beginning of the marketing year is:

Not more than 108-----	90
More than 108 but not more than 110--	89
More than 110 but not more than 112--	88
More than 112 but not more than 114--	87
More than 114 but not more than 116--	86
More than 116 but not more than 118--	85
More than 118 but not more than 120--	84
More than 120 but not more than 122--	83
More than 122 but not more than 124--	82
More than 124 but not more than 126--	81
More than 126 but not more than 128--	80
More than 128 but not more than 130--	79
More than 130-----	78
More than 130-----	77
More than 130-----	76
More than 130-----	75

The level of support shall be not less than the following percentage of the parity price:

(c) For tobacco, if marketing quotas are in effect, the level of support shall be 90 percent of the parity price.

(d) Notwithstanding the foregoing provisions of this section—

(1) the level of support to cooperators shall be 90 percent of the parity price for a crop of any basic agricultural commodity for which marketing quotas or acreage allotments are in effect immediately following a crop for which neither marketing quotas nor acreage allotments were in effect;

(2) the level of price support to cooperators for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 percent of the parity price of such commodity; and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;

(3) the level of price support for corn to cooperators outside the commercial corn-producing area shall be 75 percent of the level of price support to cooperators in the commercial corn-producing area;

(4) price support may be made available to noncooperators at such levels, not in excess of the level of price support to cooperators, as the Secretary determines will facilitate the effective operation of the program.

TITLE II—DESIGNATED NONBASIC AGRICULTURAL COMMODITIES

SEC. 201. The Secretary is authorized and directed to make available (without regard to the provisions of title III) price support to producers for shorn wool, mohair, tung nuts, Irish potatoes, milk, and butterfat as follows:

(a) The price of shorn wool shall be supported through loans, purchases, or other operations at such level, not in excess of 90 percent nor less than 60 percent of the parity price therefor, as the Secretary determines necessary in order to encourage an annual production of approximately 360,000,000 pounds of shorn wool;

(b) The price of mohair, tung nuts, and early, intermediate, and late Irish potatoes, respectively, shall be supported through loans, purchases, or other operations at a level not in excess of 90 percent nor less than 60 percent of the parity price therefor;

(c) The price of whole milk and butterfat, respectively, shall be supported at such level not in excess of 90 percent nor less than 75 percent of the parity price therefor as the Secretary determines necessary in order to assure an adequate supply. Such price support shall be provided through loans on, or purchases of, the products of such commodities.

TITLE III—OTHER NONBASIC AGRICULTURAL COMMODITIES

SEC. 301. The Secretary is authorized to make available through loans, purchases, or other operations price support to producers for any nonbasic agricultural commodity not designated in title II at a level not in excess of 90 percent of the parity price for the commodity.

SEC. 302. Without restricting price support to those commodities for which a marketing quota or marketing agreement or order program is in effect, price support shall, insofar as feasible, be made available to producers of any storable nonbasic agricultural commodity for which such a program is in effect and who are complying with such program. The level of such support shall not be in excess of 90 percent of the parity price of such commodity nor less than the level provided in the following table:

If the supply percentage as of the beginning of the marketing year is:

Not more than 102-----	90
More than 102 but not more than 104--	89
More than 104 but not more than 106--	88
More than 106 but not more than 108--	87
More than 108 but not more than 110--	86
More than 110 but not more than 112--	85
More than 112 but not more than 114--	84
More than 114 but not more than 116--	83
More than 116 but not more than 118--	82
More than 118 but not more than 120--	81
More than 120 but not more than 122--	80
More than 122 but not more than 124--	79
More than 124 but not more than 126--	78
More than 126 but not more than 128--	77
More than 128 but not more than 130--	76
More than 130-----	75

Provided, That the level of price support may be less than the minimum level provided in the foregoing table if the Secretary, after examination of the availability of funds for mandatory price support programs and consideration of the other factors specified in section 401 (b), determines that such lower level is desirable and proper.

TITLE IV—MISCELLANEOUS

SEC. 401. (a) The Secretary shall provide the price support authorized or required herein through the Commodity Credit Corporation and other means available to him.

(b) Except as otherwise provided in this act, the amounts, terms, and conditions of price-support operations and the extent to which such operations are carried out, shall be determined or approved by the Secretary. The following factors shall be taken into consideration in determining, in the case of any commodity for which price support is discretionary, whether a price-support operation shall be undertaken and the level of such support and, in the case of any commodity for which price support is mandatory, the level of support in excess of the minimum level prescribed for such commodity: (1) the supply of the commodity in relation to the demand therefor, (2) the price levels at which other commodities are being supported and, in the case of feed grains, the feed values of such grains in relation to corn, (3) the availability of funds, (4) the perishability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price-support operation, (7) the need for offsetting temporary losses of export markets, and (8) the ability and willingness of producers to keep supplies in line with demand.

(c) Compliance by the producer with acreage allotments, production goals, and

The SPEAKER. Notwithstanding the statement of the Public Printer, without objection, the extension may be made.

There was no objection.

[The matter referred to appears in the Appendix.]

Mr. THORNBERRY asked and was given permission to extend his remarks in the RECORD and include certain material.

Mr. RODINO asked and was given permission to extend his remarks in the RECORD and include an editorial.

Mr. GROSS asked and was given permission to extend his remarks in the RECORD and include an editorial from the Times-Herald regarding the sesqui-centennial exposition.

COMPENSATION FOR EMPLOYEES OF THE UNITED STATES SUFFERING INJURIES

Mr. LESINSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H. R. 3191) to amend the act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 3, line 5, strike out "or of any two thereof."

Page 5, line 2, after "or" insert "Involves."

Page 5, line 8, after "(b)" insert "and in cases involving disfigurement."

Page 12, line 21, after "capacity" insert "Provided, That for any period of temporary total disability the augmentation of his basic compensation for disability payable under section 3 shall be limited to that part of his monthly pay which is not in excess of \$420."

Page 14, line 7, strike out "total."

Page 14, line 10, after "be" insert "more than \$525 per month and in cases of total disability shall not be."

Page 14, line 12, after "compensation" insert "for total disability."

Page 16, line 11, after "12" insert "or the sum of \$525."

Page 18, line 24, strike out "but not including Members of Congress."

Page 20, line 18, after "occurred" insert "before May 1, 1943, in the cases of persons employed in the postal service whose compensation was affected by the Act of April 9, 1943 (57 Stat. 59), or."

Page 20, line 18, after "1941," insert "in all other cases."

Page 20, line 21, strike out "neither" and insert "no."

Page 21, strike out lines 8 to 17, inclusive, and insert:

"(b) The liability of the United States or any of its instrumentalities under this act or any extension thereof with respect to the injury or death of an employee shall be exclusive, and in place of all other liability of the United States or such instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and anyone otherwise entitled to recover damages from the United States or such instrumentality, on account of such injury or death, in any direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other

workmen's compensation law or under any Federal tort liability statute: *Provided, however*, That this subsection shall not apply to a master or a member of the crew of any vessel."

Page 21, line 18, after "202." insert "(a)."

Page 22, after line 18, insert:

"(b) Section 9 of the Federal Employees' Compensation Act, as so amended, is further amended by inserting immediately before the last sentence of subsection (a) of such section the following: 'The Administrator may, under such limitations or conditions as he shall deem necessary, authorize employing establishments of the United States to provide for the initial furnishing of medical and other benefits under this section, and the Administrator may certify for payment out of the Employees' Compensation Fund vouchers for expenses thus incurred for such benefits, upon certification by the person required by section 24 to make reports of injury that the expense was incurred in respect to injury which was accepted by the employing establishment as probably compensable under this act. The form and content of such certification shall be prescribed by the Administrator.'"

Page 31, after line 7, insert:

"ACCIDENT PREVENTION AND ANNUAL REPORTS

"SEC. 209. Section 13 of the Federal Employees' Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections '(a)' and '(b)' and by adding a new subsection designated as '(c)', as follows:

"(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this act. Departments and other agencies of the United States shall keep such records of injuries and accidents to persons covered by this act, whether or not resulting in loss of time or the payment or furnishing of benefits, and make such statistical or other reports and upon such forms as the Administrator may by regulation prescribe."

Page 35, strike out lines 7 to 13, inclusive, and insert:

"(g) The amendment made by section 201 of this act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such act exclusive except as to masters or members of the crew of any vessel, shall apply to any case of injury or death occurring prior to the date of enactment of this act: *Provided, however*, That any person who has commenced a civil action or an action in admiralty with respect to such injury or death prior to such date, shall have the right at his election to continue such action notwithstanding any provision of this act to the contrary, or to discontinue such action within 6 months after such date before final judgment and file claim for compensation under the Federal Employees' Compensation Act, as amended, within the time limited by sections 15 to 20 of such act (including any extension of such time limitations by any provision of this act), or within 1 year after enactment of this act, whichever is later. If any such action is not discontinued and is decided adversely to the claimant on the ground that the remedy or liability under the Federal Employees' Compensation Act is exclusive,

or on jurisdictional grounds, or for insufficiency of the pleadings, the claimant shall, within the time limited by sections 15 to 20 of such act (including any extension of such time limitations by any provision of this act), or within 1 year after final determination of such cause, whichever is later, be entitled to file a claim under such act."

Page 36, strike out lines 5 to 24, inclusive, and insert:

"SEAMEN

"SEC. 305. (a) Nothing contained in this act shall be construed to affect the exclusion of certain seamen (as defined in the act of March 24, 1943, ch. 26, 57 Stat. 45, as amended; 50 U. S. C., Appendix, sec. 1291) from the terms of the Federal Employees' Compensation Act, as provided by such act of March 24, 1943, as amended.

"(b) Nothing contained in this act shall be construed to affect any maritime rights and remedies of a master or member of the crew of any vessel."

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

PERMISSION TO ADDRESS THE HOUSE

Mr. MICHENER. Mr. Speaker, I ask unanimous consent to proceed for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROGRAM FOR NEXT WEEK

Mr. MICHENER. Mr. Speaker, may I inquire of the majority leader, the gentleman from Massachusetts [Mr. McCORMACK], what the program will be for next week?

Mr. McCORMACK. Mr. Speaker, on Monday a conference report on the national military appropriation bill will be called up. Also Monday is the day for consideration of any bills under the 21-day discharge rule. It is also District Day. I understand there are two District bills to be considered, one the municipal court bill which increases the number of judges and the other one the common trust funds bill.

If the District bills cannot be taken up due to any bills called up under the 21-day rule I will try to get unanimous consent before the session is concluded to give the District a day. Of course, in the event that happens it is a matter of discussion with the leadership on the Republican side.

On Tuesday the House will consider House Resolution 340 which would authorize a subcommittee of the District of Columbia Committee to make an investigation about crime in the District of Columbia. Is that correct?

Mr. SABATH. That is what the Rules Committee voted out today.

Mr. McCORMACK. Then there is the bill S. 1267 which is a bill having to do with the wind tunnel and air engineering development center, a national defense bill.

Wednesday is Columbus Day. I shall have nothing for that day so that the Members who have addresses to make, or other engagements which may arise,

on an important day like that may attend to them. The rest of the week is undetermined, but I will announce any additional program just as quickly as it is possible for me to do so.

On Thursday the Prime Minister of India, Mr. Nehru, will appear and address the House at 12:15.

Of course, conference reports may be brought up at any time.

Mr. MICHENER. I did not understand what the first 21-day rule was on Monday.

Mr. McCORMACK. Well, that is where bills have been reported out of committee and a Member has filed a rule.

Mr. MICHENER. I know the procedure, but I mean the action.

Mr. McCORMACK. That is a matter of high priority.

Mr. SABATH. It is the hospital bill.

Mr. MICHENER. Could it be the National Science Foundation bill?

Mr. McCORMACK. No; that will not be called up, because the chairman of the committee only, under the rule, is authorized to call a bill up, and that bill will not be called up because the chairman will not be here to do it. There are several bills subject, but in order to advise the House as fully as I can I have eliminated those that in my own mind I know could not be called up or will not be called up.

There are three bills that might be called up. One of them is House Joint Resolution 334, a bill to amend certain laws providing for membership and participation by the United States in certain international organizations. My understanding is that such legislation has already passed, but this is to put a ceiling authorizing appropriations. The information I have from the chairman of the committee is that there is a unanimous report of the committee.

Mr. SABATH. Is that House Joint Resolution 334?

Mr. McCORMACK. House Joint Resolution 334.

Mr. SABATH. That relates to United States participation in international organizations.

Mr. McCORMACK. There is another bill out of the Committee on Agriculture, to provide for the limitation of trusts under the transfer agreement with State, rural and rehabilitation corporations. Then there is another bill, H. R. 5965, to provide for the construction of certain Veterans' Administration hospitals.

Those are the three bills that would be in order but, of course, recognition is subject to the Speaker.

Mr. MICHENER. They are under the 21-day rule?

Mr. McCORMACK. Yes. There are several others that could be called up, but they will not be.

Mr. MICHENER. There are possibilities, but not probabilities.

Mr. McCORMACK. I do not think there is a possibility, even. It will be confined to those three bills.

Mr. MICHENER. I thank the gentleman.

Mr. LUCAS. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Texas.

Mr. LUCAS. Can the gentleman give the House any information about the FEPC bill?

Mr. McCORMACK. That is not being called up.

Mr. SABATH. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. SABATH. The Committee on Rules met this morning and will meet again Monday, and I have every reason to believe that we will report on H. J. Res. 334, participation in the United Nations organizations that we have subscribed to. Then there is H. R. 6003, a military and naval bill, regarding certain installations in Alaska. That comes from the Committee on Armed Services. There is a question whether that will be reported out, or H. R. 4766, which the administration desires.

Then there is the Export-Import Bank bill dealing with the point 4 program, which the Committee on Banking and Currency desires and which will be taken up by the Rules Committee Monday.

The Committee on Banking and Currency desires authority to make certain investigations, and I believe that resolution will be favorably considered, because all the other committees have been given that power. I do not know of any reason why the great Committee on Banking and Currency should be denied the same privilege that was accorded all the others.

Mr. EVINS. Mr. Speaker, will the gentleman yield?

Mr. MICHENER. I yield to the gentleman from Tennessee.

Mr. EVINS. The gentleman from Massachusetts mentioned the air engineering development center bill, which was reported from the Committee on Armed Services. Will that come up on Monday or Tuesday?

Mr. McCORMACK. On Tuesday. I have already announced that.

Mr. EVINS. Is it the first order of business?

Mr. McCORMACK. There is a resolution about the Committee on the District of Columbia, which will not take long. Then the bill to which the gentleman refers will be the regular order of business for the day. Of course, conference reports will have priority.

Mr. EVINS. We may have assurance it will be brought up on Tuesday?

Mr. McCORMACK. I am bringing it up just as quickly as is humanly possible.

Mr. EVINS. I thank my leader.

ADJOURNMENT OVER

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

SIGNING ENROLLED BILLS

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House

until Monday next the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

EXTENSION OF REMARKS

Mr. EBERHARTER asked and was given permission to extend his remarks in the RECORD in three instances, and to include two editorials and one article.

Mr. MITCHELL asked and was given permission to extend his remarks in the RECORD and include an editorial from the New York Post.

Mr. TACKETT asked and was given permission to revise and extend the remarks he made earlier today.

Mrs. DOUGLAS asked and was given permission to extend her remarks in the RECORD in five instances and include extraneous material.

SPECIAL ORDER GRANTED

Mr. POTTER asked and was given permission to address the House for 10 minutes on Monday next, at the conclusion of the legislative program for the day and following any special orders heretofore entered.

SPECIAL ORDER

The SPEAKER. Under previous order of the House, the gentleman from Illinois [Mr. MASON] is recognized for 30 minutes.

(Mr. MASON asked and was given permission to revise and extend his remarks.)

TAX EQUALITY AND EXCISE-TAX REPEAL—COMING SOON

Mr. MASON. Mr. Speaker, since July 14, when I last addressed the House urging favorable action on H. R. 5064, my bill to impose income tax on the business income of certain exempt corporations, tax dodgers in various categories have continued to raid the Treasury.

Tom Campbell's famous 95,000-acre wheat ranch in Montana has been sold to a charitable trust for \$2,000,000, and its earnings, which heretofore have been subject to the 38-percent corporate income tax, will now go tax-free.

Ed Gardner's radio comedy, Duffy's Tavern, is now being broadcast from the studio of the government-owned radio station at San Juan, P. R., where it is able to evade payment of all income tax on earnings under a ridiculous loophole in our tax statutes.

A Broadway columnist states that "Hollywood moguls are working out a plan to set up film companies as cooperatives to escape many taxes."

And 2 days ago it was reliably reported that the huge Atlantic & Pacific Tea Co. will become a non-taxpaying consumer cooperative if the Justice Department wins its suit to break up the grocery chain into seven pieces. John Hartford, head of A & P, said in an interview:

If the Government wins I will convert the whole business into the biggest consumer cooperative you ever saw. I'll sell shares in the enterprise to the people of our country.

[PUBLIC LAW 357—81ST CONGRESS]

[CHAPTER 691—1ST SESSION]

[H. R. 3191]

AN ACT

To amend the Act approved September 7, 1916 (ch. 458, 39 Stat. 742), entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", as amended, by extending coverage to civilian officers of the United States and by making benefits more realistic in terms of present wage rates, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees' Compensation Act Amendments of 1949".

TITLE I—SUBSTANTIVE AMENDMENTS

WAITING PERIOD MODIFIED

SEC. 101. (a) Section 2 of the Act approved September 7, 1916 (ch. 458, 39 Stat. 742) (hereafter in this Act referred to as the "Federal Employees' Compensation Act"), as amended (5 U. S. C., 1946 edition, sec. 752), is hereby amended to read as follows:

"SEC. 2. That with respect to the first three days of temporary disability the employee shall not be entitled to compensation except as provided in section 9, unless such disability exceeds twenty-one days in duration or is followed by permanent disability."

(b) Section 8 of such Act (5 U. S. C., 1946 edition, section 758), is amended to read as follows:

"SEC. 8. If at the time the disability begins the employee has annual or sick leave to his credit he may use such leave until it is exhausted, in which case his compensation for disability shall not begin, and the time periods specified in section 2 shall not begin to run, until the annual or sick leave has ceased."

BASIC BENEFIT FOR TOTAL DISABILITY

SEC. 102. Section 3 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 753), is hereby amended to read as follows:

"SEC. 3. (a) Except as otherwise provided in this Act, if the disability is total the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66 $\frac{2}{3}$ per centum of his monthly pay, which shall be known as his basic compensation for total disability.

"(b) Loss, or loss of use, of both hands, or both arms, or both feet, or both legs, or both eyes or the sight thereof, shall, prima facie, constitute permanent total disability."

BASIC BENEFIT FOR PARTIAL DISABILITY

SEC. 103. (a) Section 4 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 754), is further amended to read as follows:

"SEC. 4. (a) (1) Except as otherwise provided in this Act, if the disability is partial the United States shall pay to the disabled employee during such disability a monthly monetary compensation equal to 66 $\frac{2}{3}$ per centum of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of such partial disability, which shall be known as his basic compensation for partial disability.

"(2) The Administrator may require a partially disabled employee to make an affidavit or other report, in such manner and at such times as the Administrator may specify as to his earnings, whether from employment or self-employment. In such affidavit or other report the employee shall include the value of housing, board, lodging, and other advantages which are part of his remuneration for employment or are earnings in self-employment and which can be estimated in money. If such individual, when required, fails to make such affidavit or other report, or if in such affidavit or report the employee knowingly omits or understates any part of such earnings or remuneration, he shall forfeit his right to compensation with respect to any period for which such report was required to be made, and such compensation, if already paid, shall be recovered by deducting the amount thereof from the compensation payable to him or otherwise recovered in accordance with section 38, unless such recovery is waived pursuant to such section.

"(b) If a partially disabled employee refuses to seek suitable work or refuses or neglects to work after suitable work is offered to, procured by, or secured for him, he shall not be entitled to any compensation."

(b) Section 39 of such Act (5 U. S. C., 1946 edition, sec. 789), is amended by inserting, after "affidavit" the words "or report".

SCHEDULED DISABILITIES

SEC. 104. Section 5 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 755), is amended to read as follows:

"SEC. 5. (a) In any case of permanent disability which involves solely the loss, or loss of use, of a member or function of the body, or involves disfigurement, as provided in the following schedule, basic compensation for such disability shall, in addition to compensation for any temporary total or temporary partial disability, be payable to the disabled employee for the period specified in such schedule at the rate of 66 $\frac{2}{3}$ per centum of his monthly pay and shall, except as otherwise provided in subsection (b) and in cases involving disfigurement, be in lieu of compensation for such permanent disability under the preceding sections of this Act:

"(1) Arm lost, three hundred and twelve weeks' compensation.

"(2) Leg lost, two hundred and eighty-eight weeks' compensation.

"(3) Hand lost, two hundred and forty-four weeks' compensation.

"(4) Foot lost, two hundred and five weeks' compensation.

"(5) Eye lost, one hundred and sixty weeks' compensation.

"(6) Thumb lost, seventy-five weeks' compensation.

"(7) First finger lost, forty-six weeks' compensation.

"(8) Great toe lost, thirty-eight weeks' compensation.

"(9) Second finger lost, thirty weeks' compensation.

"(10) Third finger lost, twenty-five weeks' compensation.

"(11) Toe other than great toe lost, sixteen weeks' compensation.

"(12) Fourth finger lost, fifteen weeks' compensation.

"(13) Loss of hearing: (A) Complete loss of hearing of one ear, fifty-two weeks' compensation; (B) complete loss of hearing of both ears, two hundred weeks' compensation.

"(14) Binocular vision or percentage of vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for the loss of the eye.

"(15) Phalanges: Compensation for loss of more than one phalanx of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalanx shall be one-half of the compensation for loss of the entire digit.

"(16) Amputated arm or leg: If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation shall be the same as for the loss of the arm or leg, respectively.

"(17) Two or more digits: Compensation for loss, or loss of use, of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, shall be proportioned to the loss of use of the hand or foot occasioned thereby.

"(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

"(19) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member. The degree of loss of vision or hearing under this schedule shall be determined without regard to correction.

"(20) In any case in which there shall be a loss or loss of use, of more than one member or parts of more than one member as enumerated herein, the award of compensation shall be for the loss, or loss of use, of each such member or part thereof, which awards shall run consecutively, except that where the injury affects only two or more digits of the same hand or foot, subparagraph (17) of this schedule shall apply, and that where partial bilateral loss of hearing is involved, compensation shall be computed upon the loss as affecting both ears.

"(21) Disfigurement: Proper and equitable compensation not to exceed \$3,500 shall, in addition to any other compensation payable under this schedule, be awarded for serious disfigurement of the face, head, or neck, if of a character likely to handicap a person in securing or maintaining employment.

"(b) Notwithstanding the provisions of subsection (a) of this section and the provisions of sections 3 and 4, if the injury causes the

total and permanent loss, or loss of use, of an arm, hand, leg, foot, or eye (including loss of binocular vision), or total and permanent loss of hearing of both ears, whether or not the disability also involves other impairments of the body, the individual's basic compensation for such disability, in addition to compensation for periods of temporary total or temporary partial disability, shall be $66\frac{2}{3}$ per centum of his monthly pay for the period specified for such loss, or loss of use, in the schedule to subsection (a) of this section (including paragraphs (16) and (20) thereof), and with respect to any subsequent period shall be as provided in section 3 if the disability is total or as provided in subsection (a) of section 4 if the disability is partial.

"(c) The period of compensation payable under the schedule to subsection (a) of this section on account of any injury shall be reduced by the period of compensation paid or payable under such schedule on account of a prior injury if compensation in both cases is for disability of the same member or function, or different parts of the same member or function, or for disfigurement, and the Administrator finds that compensation payable on account of the subsequent disability in whole or in part would duplicate the compensation payable on account of the preexisting disability. In such cases, for the purposes of disabilities specified in subsection (b), compensation for disability continuing after the scheduled period shall commence upon expiration of such period as reduced under this subsection.

"(d) (1) If an individual who has sustained disability compensable under subsection (a) (including any disability compensable under the schedule to subsection (a) by virtue of subsection (b)), and who has filed a valid claim in his lifetime, dies, from causes other than the injury, before the expiration of the compensable period specified in such schedule, the compensation specified in such schedule and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in such schedule, to and for the benefit of the persons then in being within the classes and in the proportions and upon the conditions specified in this subsection and in the order named:

"(A) to the widow (as defined in section 10 (H)) or wholly dependent widower (as specified in section 10 (B)), if there is no child (as so defined) under the age of eighteen or incapable of self-support; or

"(B) if there are both such a widow or widower and such a child or children, one-half to such widow or widower and the other half to such child or children; or

"(C) if there is no such widow or widower but such a child or children, then to such child or children; or

"(D) if there is no survivor in the above classes, then to the parent or parents wholly or partly dependent for support upon the decedent, or to other wholly or partly dependent relatives listed in section 10 (F), or to both, in such proportions as may be provided by regulation; or

"(E) if there is no survivor in any of the above classes, and no burial allowance is payable under section 11, then such amount, not exceeding the amount which would be expendable under section 11 if such section were applicable, shall be paid to reimburse

any person or persons, equitably entitled thereto, to the extent and in the proportions that they shall have paid the expenses of burial of such disabled individual, but no compensated insurer or other person obligated by law or contract to pay such expenses, and no State or political subdivision or entity, shall be deemed so equitably entitled.

“(2) Except for the amount of such compensation payable with respect to any period preceding the disabled individual’s death, the payments to be made under paragraph (1) shall be at the basic rate of compensation for permanent disability specified in subsection (a) of this section, even if at the time of such death the decedent was entitled to the augmented rate specified in section 6 (a).

“(3) (A) The right of any surviving beneficiary listed in paragraph (1) to any payment pursuant to this subsection, except a beneficiary under clause (E) thereof, shall be conditioned upon his being alive to receive such payment and no such beneficiary shall have a vested right to any such payment.

“(B) The entitlement of any beneficiary to payments under clauses (A) to (D) of paragraph (1) shall cease upon the happening of any event which would terminate the right of such beneficiary to compensation for death under section 10. Upon the cessation of the entitlement of any beneficiary under such clauses (A) to (D), the compensation remaining unpaid under paragraph (1) which would have been payable to him had such entitlement continued shall be payable to the surviving beneficiary or beneficiaries, if any, within the same class or, if there are none, then to the beneficiary or beneficiaries next entitled to priority under such paragraph.”

ELIMINATION OF MAXIMUM AND INCREASE OF MINIMUM BENEFIT
AMOUNT—DEPENDENTS’ BENEFITS, AND SO FORTH

SEC. 105. Section 6 of the Federal Employees’ Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 756), is further amended to read as follows:

“SEC. 6. (a) (1) While the disabled employee has one or more dependents, his basic compensation for disability payable under section 3 or section 5 (a) (including compensation payable under the schedule to section 5 (a) by virtue of section 5 (b)) shall be augmented at the rate of $8\frac{1}{3}$ per centum of his monthly pay, and his basic compensation for disability payable under section 4 (a) shall be augmented at the rate of $8\frac{1}{3}$ per centum of the difference between his monthly pay and his monthly wage-earning capacity: *Provided*, That for any period of temporary total disability the augmentation of his basic compensation for disability payable under section 3 shall be limited to that part of his monthly pay which is not in excess of \$420.

“(2) As used in this subsection, the term ‘dependent’ shall mean any of the following:

“(A) A wife, if (i) she is a member of the same household as the employee or is receiving regular contributions from him toward her support, or (ii) he has been ordered by any court to contribute to her support.

“(B) A husband, if wholly dependent by reason of his own physical or mental disability upon the employee for support.

“(C) An unmarried child (as defined in section 10 (H)), while such child (i) is under eighteen years of age or, if over eighteen, is incapable of self-support by reason of mental or physical disability, and (ii) is living with the employee or receiving regular contributions toward his support from the employee.

“(D) A parent (as defined in section 10 (H)), while wholly dependent upon and supported by the employee.

“(b) (1) In addition to the monthly compensation otherwise specified in this Act, the Administrator may pay an injured employee, who has been awarded compensation, an additional sum of not more than \$75 a month, as the Administrator may deem necessary, when the Administrator shall find that the service of an attendant is necessary constantly to be used by reason of the employee's being totally blind, or having lost both hands or both feet or the use thereof, or being paralyzed and unable to walk, or by reason of other disability resulting from the injury actually rendering him so helpless as to require constant attendance.

“(2) The Administrator may pay to any disabled individual who is undergoing vocational rehabilitation pursuant to the Administrator's direction under section 9 (b) additional compensation necessary for his maintenance, but not to exceed \$50 per month.

“(c) Except as otherwise authorized under section 42, the monthly rate of compensation for disability, including any augmented compensation payable by reason of subsection (a) but not including any sum payable by reason of subsection (b), shall not be more than \$525 per month and in cases of total disability shall not be less than \$112.50 per month, unless the employee's monthly pay is less in which case his monthly rate of compensation for total disability shall be equal to his full monthly pay.

“(d) (1) In the case of any person who at the time of the injury was a minor or employed in a learner's capacity and who, prior to the injury, was not physically or mentally handicapped, the Administrator shall, on any review under section 37 after the time when the wage-earning capacity of such person would probably, but for the injury, have increased, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable increased wage-earning capacity. The Administrator may, on any review under section 37 after a disabled employee has attained the age of seventy years and the wage-earning capacity of the disabled employee would probably, aside from and independently of the effects of the injury, have decreased on account of old age, prospectively recompute the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to such probable decreased wage-earning capacity.

“(2) If a disabled individual, without good cause, fails to apply for and undergo vocational rehabilitation when so directed pursuant to section 9 (b), and the Administrator, upon review under section 37, finds that in the absence of such failure the individual's wage-earning capacity would probably have substantially increased, the Administrator may prospectively reduce the individual's monetary compensation in accordance with what would probably have been his wage-earning capacity in the absence of such failure, until the individual in good faith complies with the Administrator's direction.”

INCREASE IN DEATH BENEFITS, AND SO FORTH

SEC. 106. (a) Section 10 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 760), is further amended by striking out "66 $\frac{2}{3}$ " wherever it occurs and inserting in lieu thereof "75"; by striking out "35" in clauses (A) and (B) and inserting in lieu thereof "45"; by striking out in clause (C) the words "the compensation payable under clause (A) or clause (B)" and inserting in lieu thereof "40 per centum"; by striking out "10" in clauses (C) and (D) and inserting in lieu thereof "15"; and by striking out "25" in clause (D) and inserting in lieu thereof "35".

(b) Clause (K) of such section, as amended, is further amended to read as follows:

"(K) In computing compensation under this section the monthly pay shall be considered not to be less than \$150, but the total monthly compensation shall not exceed the monthly pay computed as provided in section 12 or the sum of \$525."

(c) Clause (B) of such section, as so amended, is further amended to read as follows:

"(B) To the widower, if there is no child, 45 per centum if wholly dependent for support, by reason of his physical or mental disability, upon the deceased employee at the time of her death. This compensation shall be paid until his death or marriage or until he becomes capable of self-support."

(d) Such section, as so amended, is further amended by striking out the second sentence of clause (C), the last sentence of clause (D), and the last sentence of clause (G).

(e) Clause (L) of such section, as so amended, is amended to read as follows:

"(L) If any person entitled to compensation under this section or section 5 or 6, whose compensation by the terms of this or of such other section ceases or is to be reduced upon his marriage or upon the marriage of his dependent, accepts after such marriage any payments or compensation to which he is not entitled, he shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year, or by both such fine and imprisonment."

LIBERALIZATION OF BURIAL PAYMENTS

SEC. 107. Section 11 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 761), is further amended to read as follows:

"SEC. 11. If death results from the injury the United States shall pay, to the personal representative of the deceased employee or otherwise, funeral and burial expenses not to exceed \$400, in the discretion of the Administrator. In the case of an employee whose home is within the United States, if his death results from the injury while he is away from his home or official station or is outside of the United States, or if his death results from other causes while he is away from his home or official station for the purpose of receiving medical or other services, appliances, or supplies under section 9 or examination under section 21, and if so desired by his relatives, the body shall, in the discretion

of the Administrator, be embalmed and transported in a hermetically sealed casket to the home or last place of residence of the employee at the expense of the employees' compensation fund. If, in such cases, request for return of the body is not made by the decedent's relatives, the Administrator may provide for the disposition of the remains and incur, and cause payment from the employees' compensation fund of, such necessary transportation, funeral, and burial expenses as under the circumstances shall be reasonable."

EXTENSION OF COVERAGE, AND SO FORTH

SEC. 108. (a) Section 40 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 790), is further amended, by designating the paragraphs thereof, following the introductory phrase, as paragraphs "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", "(g)", and "(h)", respectively.

(b) Paragraph (b) of such section, as so designated, defining the term "employee", is further amended to read as follows:

"(b) The term 'employee' includes (1) all civil officers and employees of all branches of the Government of the United States (including officers and employees of instrumentalities of the United States wholly owned by the United States); (2) commissioned officers of the Regular Corps of the Public Health Service; (3) officers in the Reserve of the Public Health Service on active duty; (4) persons rendering personal services of a kind similar to those of civilian officers or employees of the United States to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it), without compensation or for nominal compensation, in any case in which acceptance or use of such services is authorized by an Act of Congress or in which provision is made by law for payment of the travel or other expenses of such person; and (5) persons, other than independent contractors and their employees, employed on the Menominee Indian Reservation in the State of Wisconsin, subsequent to September 7, 1916, in operations conducted pursuant to the Act entitled 'An Act to authorize the cutting of timber, the manufacture and sale of lumber, and the preservation of the forests on the Menominee Indian Reservation in the State of Wisconsin', approved March 28, 1908, as amended, or any other Act relating to tribal timber and logging operations on the Menominee Reservation."

(c) Paragraph (c) of such section, as so designated, defining the term "commission", is further amended by inserting "former" after the words "to the" and by striking out the words "provided for in section 28".

(d) Paragraph (f) of such section, as so designated, defining the term "monthly pay", is further amended by inserting, immediately before the period, the following: "except when otherwise determined under section 6 (d) with respect to any period".

(e) Such section is further amended by adding thereto a new paragraph "(i)" reading as follows:

"(i) The term 'Administrator' means the Federal Security Administrator."

INCREASE OF COMPUTATION BASE WHERE INJURY OCCURRED BEFORE
JULY 1, 1946

SEC. 109. Notwithstanding any other provision of this Act or of the Federal Employees' Compensation Act, the monthly pay upon the basis of which compensation for disability or death is computed under the Federal Employees' Compensation Act, as amended, shall, effective on the first day of the first calendar month following enactment of this Act, be increased by 40 per centum if the injury (or injury causing death) occurred before May 1, 1943, in the cases of persons employed in the postal service whose compensation was affected by the Act of April 9, 1943 (57 Stat. 59), or before January 1, 1941, in all other cases, or by 10 per centum if the injury (or injury causing death) occurred on or after such date but before July 1, 1946, except that such increase shall in no event exceed \$50. This section shall apply to any case of death caused by such an injury, regardless of whether such death occurs or occurred before or after the enactment of this Act.

TITLE II—TECHNICAL AMENDMENTS

EXCLUSIVENESS OF REMEDY

SEC. 201. Section 7 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 757), is further amended by inserting the designation "(a)" immediately before the first sentence thereof and by adding to such section a new subsection reading as follows:

"(b) The liability of the United States or any of its instrumentalities under this Act or any extension thereof with respect to the injury or death of an employee shall be exclusive, and in place, of all other liability of the United States or such instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and anyone otherwise entitled to recover damages from the United States or such instrumentality, on account of such injury or death, in any direct judicial proceedings in a civil action or in admiralty, or by proceedings, whether administrative or judicial, under any other workmen's compensation law or under any Federal tort liability statute: *Provided, however,* That this subsection shall not apply to a master or a member of the crew of any vessel."

SEC. 202. (a) Section 9 of the Federal Employees' Compensation Act, as amended (5 U. S. C., 1946 edition, sec. 759), is amended by inserting before the first sentence thereof the designation "(a)" and by adding at the end of such section a new subsection reading as follows:

"(b) The Administrator may direct any permanently disabled individual whose disability is compensable under this Act to undergo vocational rehabilitation and shall make provision for furnishing vocational rehabilitation services in such cases. In providing for such services, the Administrator shall, insofar as practicable, utilize the services or facilities of State agencies (or corresponding agencies in Territories or possessions) cooperating with him in carrying out the purposes of the Vocational Rehabilitation Act, as amended, except to the extent that the Administrator provides for furnishing such services under subsection (a) of this section. The cost of providing

such services to individuals undergoing vocational rehabilitation pursuant to such direction shall be paid from the employees' compensation fund, except that in reimbursing any State agency (or corresponding agency of a Territory or possession) under any arrangement pursuant to this subsection there shall be excluded any cost to such agency reimbursable in full under section 3 (a) (4) of the Vocational Rehabilitation Act, as amended."

(b) Section 9 of the Federal Employees' Compensation Act, as so amended, is further amended by inserting immediately before the last sentence of subsection (a) of such section the following: "The Administrator may, under such limitations or conditions as he shall deem necessary, authorize employing establishments of the United States to provide for the initial furnishing of medical and other benefits under this section, and the Administrator may certify for payment out of the Employees' Compensation Fund vouchers for expenses thus incurred for such benefits, upon certification by the person required by section 24 to make reports of injury that the expense was incurred in respect to injury which was accepted by the employing establishment as probably compensable under this Act. The form and content of such certification shall be prescribed by the Administrator."

COMPUTATION OF PAY

SEC. 203. Section 12 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 762) is amended to read as follows:

"SEC. 12. (a) In computing monetary compensation for disability or death upon the basis of monthly pay, such pay shall be determined in accordance with the provisions of this section.

"(b) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, shall be included as part of the pay. Overtime pay, or additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstance, or bonus or premium pay for extraordinary service (including amounts paid as bonus for particularly hazardous service in time of war) shall not be taken into account. The term 'overtime pay', as used in this subsection, means pay for hours of service in excess of those of a statutory or other basic workweek, or other basic unit of work time, as observed by the establishment in which the employee is employed.

"(c) (1) The monthly pay at the time of injury shall be deemed to be one-twelfth of the employee's average annual earnings at that time, except that when compensation is paid upon a weekly basis, the weekly equivalent of such monthly pay shall be deemed to be one-fifty-second of such average annual earnings: *Provided*, That, for so much of the period of total disability as does not exceed ninety calendar days from the date of the beginning of compensable disability, the compensation may, in the discretion of the Administrator, be computed on the basis of the employee's actual daily wage at the time of injury and in that event he may be paid compensation for such days as he would have worked but for the injury.

"(2) Average annual earnings shall be determined as follows:

"(A) If the employee worked in the employment in which he was working at the time of his injury during substantially the whole of the year immediately preceding such injury, his average

annual earnings shall consist of the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by three hundred if he was employed on the basis of a six-day workweek, two hundred and eighty if employed on the basis of a five-and-one-half-day week, and two hundred and sixty if employed on the basis of a five-day week, except that if the employment was in a position for which an annual rate of compensation was fixed, such average annual earnings shall consist of such annual rate of compensation.

“(B) If the injured employee did not work in such employment during substantially the whole of such year, but the position was such as would have afforded employment for substantially a whole year, then the average annual earnings of such employee shall be equal to the average annual earnings of an employee of the same class working substantially the whole of such immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined in accordance with clause (A).

“(C) If either of the foregoing methods of determining the average annual earnings of an injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring locality, or to other previous employment of such employee, or to any other relevant factors, shall reasonably represent the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury: *Provided*, That his average annual earnings shall consist of not less than one hundred and fifty times the average daily wage which he shall have earned in such employment during the days when so employed within the period of one year immediately preceding his injury.

“(D) Such rules shall, so far as practicable, be also applied in the case of an employee serving without pay or at nominal pay: *Provided*, That (i) the average annual earnings of such employee shall in no event exceed the basic rate of annual compensation specified under the Classification Act of 1923, as amended, for positions in grade CAF-15 or P-8 at the bottom of such grade, and (ii) if his average annual earnings cannot reasonably and fairly be determined in the manner otherwise provided in this section, such average annual earnings shall be determined at the reasonable value of the service rendered but not in excess of \$3,600 per annum.

“(d) As used in this section the term ‘year’ means a period of twelve calendar months, or the equivalent thereof as specified in regulations issued by the Administrator.”

COMPUTATION OF WAGE-EARNING CAPACITY

SEC. 204. Section 13 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 763), is amended to read as follows:

"SEC. 13. (a) In the determination of an employee's wage-earning capacity after the beginning of partial disability, the rules specified in section 12 (b) shall apply.

"(b) The wage-earning capacity of an injured employee, in determining compensation for partial disability other than permanent partial disability compensable under section 5, shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: *Provided, however,* That if the employee has no actual earnings, or his actual earnings do not fairly and reasonably represent his wage-earning capacity, such wage-earning capacity as shall appear reasonable under the circumstances of the case shall be determined, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition."

ADMINISTRATOR SUBSTITUTED FOR COMMISSION

SEC. 205. (a) Section 28 of the Federal Employees' Compensation Act, as amended, is amended to read as follows:

"SEC. 28. This Act shall be administered by the Administrator. The Administrator is authorized to delegate to any officer or employee of the Federal Security Agency any of the powers conferred upon him by this Act."

(b) The first and third sentences of section 28a of such Act are repealed, but such repeal shall not be construed to revive any independent bureau or other agency abolished by such section.

(c) (1) The word "commission" (or other designation of the commission), and the word "it" or "its" whenever they refer to the commission, in any part of such Act, are struck out wherever necessary in order to give effect to subsection (a) of this section, and the words "Administrator" and "he" or "his", respectively, are inserted in lieu thereof.

(2) In addition, the phrase "or any commissioner by authority of the commission," in section 29 of such Act is struck out.

OVERPAYMENTS

SEC. 206. Section 38 of the Federal Employees' Compensation Act (5 U. S. C., 1946 edition, sec. 788), is amended to read as follows:

"SEC. 38. (a) Subject to the provisions of sections 36 and 37, whenever by reason of an error of fact or law an overpayment has been made to an individual under this Act, proper adjustments shall be made, under regulations prescribed by the Administrator, by decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by decreasing subsequent benefits, if any, payable under this Act with respect to such individual's death.

"(b) There shall be no adjustment or recovery by the United States in any case where incorrect payment has been made to an individual who is without fault and where adjustment or recovery would defeat the purpose of this Act or would be against equity and good conscience.

"(c) No certifying or disbursing officer shall be held liable for any amount certified or paid by him to any person where the adjustment

or recovery of such amount is waived under subsection (b), or where adjustment under subsection (a) is not completed prior to the death of all persons against whose benefits deductions are authorized."

SHORT TITLE

SEC. 207. The Federal Employees' Compensation Act, as amended, is further amended by adding thereto at the end thereof a new section as follows:

"SEC. 43. This Act may be cited as the 'Federal Employees' Compensation Act'."

FEEES

SEC. 208. Section 23 of such Act, as amended, is further amended to read as follows:

"SEC. 23. (a) Fees or examinations made on the part of the United States under sections 21 and 22 by physicians who are not officers or employees of the United States and not under contract to the United States to render medical services to its employees shall be fixed by the Administrator. Such fees, and any sum payable to the employee under section 21, which authorized or approved by the Administrator, shall be paid from the Employees' Compensation Fund.

"(b) A claimant may be represented before the Administrator in any proceeding under this Act by any person duly authorized by such claimant. No claim for legal services or for any other services rendered in respect of a case, claim, or award for compensation under this Act, to or on account of any person, shall be valid unless approved by the Administrator. Any person who receives any fee or other consideration, or any gratuity on account of services so rendered, unless such fee, consideration, or gratuity, is so approved, or who solicits employment for himself or another in respect of any case, claim, or award for compensation under (or to be brought under) this Act shall be guilty of a misdemeanor and upon conviction thereof shall, for each offense, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

"(c) If any person in proceedings before the Administrator or his duly authorized representative disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, the Administrator or his duly authorized representative shall certify the facts to the district court having jurisdiction in the place in which he is sitting (or to the district court of the United States for the District of Columbia if he is sitting in such district) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the process of or in the presence of the court."

ACCIDENT PREVENTION AND ANNUAL REPORTS

SEC. 209. Section 33 of the Federal Employees' Compensation Act, as amended, is further amended by designating the first two paragraphs thereof, respectively, subsections "(a)" and "(b)" and by adding a new subsection designated as "(c)", as follows:

“(c) In order to reduce the number of accidents and injuries among Government officers and employees, encourage safe practices, eliminate work hazards and health risks, and reduce compensable injuries, the heads of the various departments and agencies are authorized and directed to develop, support, and foster organized safety promotion, and the President may also establish by Executive order a safety council composed of representatives of Government departments and agencies to serve as an advisory body to the Administrator in furtherance of the safety program carried out by the Administrator pursuant to this section, and the President may undertake such other measures as he may deem proper to prevent injuries and accidents to persons covered by this Act. Departments and other agencies of the United States shall keep such records of injuries and accidents to persons covered by this Act, whether or not resulting in loss of time or the payment or furnishing of benefits, and make such statistical or other reports and upon such forms as the Administrator may by regulation prescribe.”

TITLE III—TRANSITIONAL PROVISIONS AND EFFECTIVE DATE

EXTENSION OF TIME LIMITATIONS

SEC. 301. (a) Where an individual with respect to whose disability or death compensation is claimed under the Federal Employees' Compensation Act, as amended, was injured or died outside the United States on or after December 7, 1941, and before August 11, 1946, the time limitations of such Act with respect to the giving of notice of injury and the filing of a claim for compensation shall not begin to run until the date of enactment of this Act.

(b) As used in this subsection, the term “United States” includes only the States, Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the Canal Zone.

COMPROMISE SETTLEMENTS—PRIVATE ACTS

SEC. 302. The provisions of this Act shall not be construed to authorize the payment of any compensation under the Federal Employees' Compensation Act in any case where, pursuant to private relief legislation, a beneficiary of such legislation has accepted payment of a grant in satisfaction of the liability of the United States (or its corporation, agency, or other instrumentality) in such case, or where such liability has been compromised and settled, or other satisfaction received, as the result of any action sounding in tort or under maritime law, or where a lump sum has been received under section 14 of the Federal Employees' Compensation Act and the lump-sum award is not modified or set aside for other reasons.

EFFECTIVE OPERATION

SEC. 303. (a) Except as otherwise provided by this section or in this Act, titles I and II of this Act shall take effect on the date of enactment of this Act and be applicable to any injury or death occurring before or after such date.

(b) The amendments made by section 101 of this Act to sections 2 and 8 of the Federal Employees' Compensation Act shall not apply

to any period of disability commencing before the enactment of this Act.

(c) The amendments made by sections 102, 103, 105, and 106 of this Act to sections 3, 4 (a), 6, 10, and 39 of the Federal Employees' Compensation Act shall be applicable to cases of injury or death occurring before enactment of this Act only with respect to any period beginning on or after the first day of the first calendar month following the enactment of this Act.

(d) (1) The amendments made by section 104 of this Act to section 5 of the Federal Employees' Compensation Act, establishing special provisions for permanent disability involving the loss, or loss of use, of a member or function of the body, shall (A) in cases within the purview of section 5 (b) or in cases of disfigurement apply retroactively to any case where the injury occurred on or after January 1, 1940, and (B) in other cases, apply retroactively to injuries which occurred within one year prior to the enactment of this Act: *Provided*, That where the injury occurred before such enactment, except in cases specified in subsection (b) of section 5 of such Act, as so amended, the injured employee shall not be entitled to compensation under the schedule unless within one year after such date of enactment he elects to receive compensation under the schedule if so entitled: *Provided further*, That in the event of such election, all amounts theretofore paid on the basis of loss of wage-earning capacity as compensation for permanent disability involving a loss, or loss of use, of a member or function, or disfigurement, as specified in the schedule shall be credited against any compensation awarded by reason of such amendment: *And provided further*, That any award made under the provisions of this subsection shall be payable prospectively in the same manner as though the injury occurred after the enactment of this Act.

(2) No payment upon death pursuant to section 5 (d) of the Federal Employees' Compensation Act, as amended by this Act, shall be made unless death occurs after such enactment. In the event of such death, the election required by paragraph (1) of this subsection shall be deemed to have been made.

(e) Section 107 of this Act, amending section 11 of the Federal Employees' Compensation Act, shall apply only to deaths occurring after the enactment of this Act.

(f) (1) The amendments made by section 108 of this Act to the definition of the term "employee" contained in section 40 of the Federal Employees' Compensation Act shall, as to any case of injury or death occurring before the date of enactment of this Act, apply only to injuries or deaths occurring on or after December 7, 1941, and compensation (including medical or other benefits) in any such case shall not be paid for any period earlier than the first day of the first month following enactment of this Act and, in cases of disability caused by such an injury, shall be limited to compensation for permanent partial or permanent total disability.

(2) The time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and the filing of a claim for compensation, in any case brought within the purview of section 40 of such Act by this Act, shall not begin to run until the date of enactment of this Act.

(g) The amendment made by section 201 of this Act to section 7 of the Federal Employees' Compensation Act, making the remedy and liability under such Act exclusive except as to masters or members of the crew of any vessel, shall apply to any case of injury or death occurring prior to the date of enactment of this Act: *Provided, however,* That any person who has commenced a civil action or an action in admiralty with respect to such injury or death prior to such date, shall have the right at his election to continue such action notwithstanding any provision of this Act to the contrary, or to discontinue such action within six months after such date before final judgment and file claim for compensation under the Federal Employees' Compensation Act, as amended, within the time limited by sections 15 to 20 of such Act (including any extension of such time limitations by any provision of this Act), or within one year after enactment of this Act, whichever is later. If any such action is not discontinued and is decided adversely to the claimant on the ground that the remedy or liability under the Federal Employees' Compensation Act is exclusive, or on jurisdictional grounds, or for insufficiency of the pleadings, the claimant shall, within the time limited by sections 15 to 20 of such Act (including any extension of such time limitations by any provision of this Act), or within one year after final determination of such cause, whichever is later, be entitled to file a claim under such Act.

(h) The amendments made by sections 203 and 204 of this Act to sections 12 and 13 of the Federal Employees' Compensation Act, pertaining to the determination of the employee's pay or his wage-earning capacity, may, in the interest of justice and in the discretion of the Administrator, be applied in any case, irrespective of the date of injury or death, so as to cause payments of compensation, with respect to any period not earlier than the first day of the first month after enactment of this Act, to be consistent with such amendments.

TIME LIMITATIONS NOT EXTENDED

SEC. 304. Except as otherwise expressly provided, the enactment of this Act shall not suspend or defer the running of the time limitations of the Federal Employees' Compensation Act with respect to the giving of notice of injury and filing of a claim for compensation.

SEAMEN

SEC. 305. (a) Nothing contained in this Act shall be construed to affect the exclusion of certain seamen (as defined in the Act of March 24, 1943, ch. 26, 57 Stat. 45, as amended; 50 U. S. C., Appendix, sec. 1291) from the terms of the Federal Employees' Compensation Act, as provided by such Act of March 24, 1943, as amended.

(b) Nothing contained in this Act shall be construed to affect any maritime rights and remedies of a master or member of the crew of any vessel.

TITLE IV

LIBERALIZATION OF MINIMUM AND MAXIMUM COMPENSATION FOR EMERGENCY RELIEF WORKERS

SEC. 401. (a) Clauses (a), (b), and (c) of the second proviso to section 1 of the Act approved February 15, 1934 (ch. 13, 48 Stat. 351), are hereby amended to read as follows:

“(a) that the aggregate monetary compensation in any individual case, except compensation for death or for permanent total disability, shall not exceed the sum of \$4,000 and that the monthly monetary compensation shall not in any event exceed \$100, both exclusive of medical costs;

“(b) that, in lieu of the minimum limit on monthly compensation for disability established by section 6 and the minimum limit on the monthly pay on which death compensation is to be computed as provided by section 10 (K) of such Act, the monthly pay on the basis of which compensation for disability or death is computed shall be deemed to be not less than \$75 and compensation shall be payable on the basis of such pay regardless of the actual pay at the time of injury or death, except that the Federal Security Administrator may from time to time, by regulation, fix a lower minimum monthly pay as a basis for computing such compensation as to any class of individuals, specified in the fourth paragraph of section 42 of such Act, as amended, who sustained injury or were killed outside the continental United States;

“(c) that the Federal Security Administrator may from time to time, subject to the above limitations, establish a special schedule of compensation for disability and for death (including a special schedule of compensation for the loss, or loss of use, of members or functions of the body), and compensation under such schedule shall be in lieu of all other compensation in such cases;”.

(b) The first proviso to section 8 of the Emergency Relief Appropriation Act of 1937 (ch. 401, 50 Stat. 352, 356), and the first proviso to section 16 of the Emergency Relief Appropriation Act of 1938 (ch. 554, 52 Stat. 809, 814), are repealed.

(c) This section shall apply to any case heretofore or hereafter coming within the purview of such Act of February 15, 1934, but no compensation shall, with respect to any case of injury or death occurring before the date of enactment of this Act, accrue or be increased by reason of the enactment of this section for any period prior to the first day of the first month following the date of enactment of this Act.

(d) The special schedule of compensation heretofore established pursuant to clause (a) of the second proviso to section 1 of such Act of February 15, 1934, shall remain in effect until superseded by a new schedule established pursuant to the amendments made by this section.

MEMBERS OF WOMEN'S ARMY AUXILIARY CORPS

SEC. 402. Effective as of July 25, 1947, paragraph a of section 2 of the Act approved July 25, 1947 (ch. 327, 61 Stat. 449, 451), is amended by striking out the semicolon at the end of the provision repealing the Act of July 1, 1943 (57 Stat. 371), and the Act of May 14, 1942 (56 Stat. 278), as amended, and inserting in lieu thereof a colon and the following proviso: “*Provided*, That section 11 of such Act of May 14, 1942, shall remain in effect to the extent specified in section 5 of such Act of July 1, 1943;”.

Approved October 14, 1949.

